LIBRARY OF PRINCETON
JAN 13 1925
THEOLOGICAL SEMINARY

Division HV8694
Section .L41

JAN 13 1925
THEOLOGICAL SEMINARY

Man's Judgment of Death

An Analysis of the Operation and Effect of Capital Punishment Based on Facts, not on Sentiment

By

Lewis E. Lawes

Warden, Sing Sing Prison
President, American Prison Association, 1923

"I shall ask for the abolition of the Penalty of Death until I have the infallibility of human judgment demonstrated to me."

LAFAYETTE.

G.P. Putnam's Sons
New York & London
The Knickerbocker Press
1924

Copyright, 1924
by
Lewis E. Lawes

Made in the United States of America

Dedicated to the Members of the Executive Committee of the Prison Association of New York, Whose Interest Made Possible the Publication of this Manuscript

FOREWORD

No vital problem in the world today has been considered with so little accurate and scientific knowledge as capital punishment. We have always had this method of punishment and we have always had widespread capital crime. Because of inertia, conservatism, timidity, people have clung to this punishment in the belief that it provided the only effective deterrent. They have blindly accepted as facts, theories which this inertia, conservatism and timidity have forced upon public consciousness through generations. This has been so because there has been little actual knowledge and very little attempt to secure more knowledge. For this reason, I offer no apology for a presentation of facts and statistics without romance and without emotional appeal. From twenty years of work in closest contact with this problem I could give many colorful experiences, but they would not aid in solving the

problem, as it must be solved, if our progress in treatment of crime is to keep parallel with our advance in other sciences.

LEWIS E. LAWES.

OSSINING, NEW YORK.
February 25, 1924.

Man's Judgment of Death

Man's Judgment of Death

Futility of Capital Punishment

IN the Canadian Arctic, six hundred miles from Dawson City, two Eskimos are hung on the gallows by the Canadian Mounted Police, pursuant to a sentence of death duly and legally pronounced according to the law of the Dominion Government. The men who were executed had been in turn themselves the executioners according to due tribal form and ceremony (to them as legal and binding as any white man's law) of an Eskimo murderer. But because their assumption of the function of executioners was sanctioned by tribal law, not by the Dominion law, they paid the identical penalty which a few months before they had meted out.

"Vengeance again becomes decorous and legal and there seems to be no higher power ready to swing the British executors of the Eskimo executors off into the Arctic darkness of eternity."[1]

[1] *The Nation:* Editorial comment.

Thus do we again see the illogical futility of a method of punishment which is older than civilization itself.

Growth of Sentiment against Death Penalty

Capital punishment has always been discussed and debated; pamphlets, articles and books have been written, speeches have been delivered on the subject; men prominent in every walk of life have expressed their opinions, until it seems as if no new thought could be brought to bear on the problem, as if no new contribution could be made that possesses the merit of throwing clearer light upon the topic. Far back in the early days of colonization in this country this problem was discussed. And through this discussion and the attendant agitation has come a gradual lessening in the number of capital offenses, a gradual broadening of the territory where the death penalty is entirely done away with or is retained to a limited extent only.

In England in 1780, there were two hundred and forty capital offenses; in the time of Blackstone there were one hundred and sixty. Blackstone himself says:

"So dreadful a list instead of diminishing, increases the number of offenders. The injured through com-

passion will often forbear to prosecute; juries through compassion will sometimes forget their oaths, and either acquit the guilty or mitigate the nature of the offense; and judges through compassion will respite one half of the convicts and recommend them to the Royal mercy. Among so many chances of escaping, the needy and hardened offender overlooks the multitude that suffer; he boldly engages in some desperate attempt to relieve his wants or supply his vices; and if, unexpectedly, the hand of justice overtakes him, he deems himself peculiarly unfortunate in falling at last a sacrifice to those laws which long impunity had taught him to contemn."[1]

Changes of this character must come slowly. The fact that innocent persons may occasionally be executed does not affect the public mind to a sufficient extent to result in a popular demand for the abolition of the death penalty. Such occurrences are too remote from the lives of the vast majority.

But from those early times until today, slowly but surely, the public sentiment against capital punishment has grown. Occasionally, and for a short period, this sentiment may swing in the opposite direction, but the volume, the strength of the movement increases, and today we stand on the edge of a strong sweep of popular feeling which eventually

[1] Blackstone's *Commentaries.*

will carry on to the complete and final abolition of capital punishment. This will come partly from moral and ethical reasons, but fundamentally because practical and scientific research will reveal its utter uselessness; and the process of all evolution, individual as well as national, is to discard that which is useless.

In spite of the centuries that have elapsed, and the volumes that have been written on the subject, there has been too little careful scrutiny of facts. Many writers have assumed that it is impossible to secure statistics. The debates and arguments have been based on sentiment, on the appeal to the emotions, on religious and ethical foundations, whereas the problem is one that should have careful and scientific attention. The appeal to the emotions, to ethical considerations is right and proper, but it should be secondary to a rigid examination of facts, to scientific analysis of conditions and results. For this reason the discussion which I shall attempt to present may possess the merit of a new, and I hope somewhat unique contribution to the mass of material which has been written and spoken on the subject.

Scope of Discussion

The scope of this discussion, broadly speaking, is threefold. To present a comprehensive statement of the present condition of capital punishment in its legal aspect, showing where it is retained, where it has been abolished, where there exists a choice between its application and life imprisonment as a punishment for murder; showing what the changes have been within the past decade or two. To ascertain from existing facts and conditions just how this method of punishment works in actual operation. By this is meant a careful scrutiny of the statistics of death sentences, of sentences to life imprisonment, and of executions over a period of years sufficiently long and covering a territory sufficiently broad, geographically, to be comprehensive. To try to discover from such statistics as can be collected what effect the imposition of the death penalty appears to have as a deterrent of capital crime. In order to understand and discuss this problem and to arrive at a right conclusion regarding it, we must know, first, exactly how the law exists today, second, what the actual facts are as to imposition and execution of death and life sentences, third, what relation can be observed between the existence or non-exist-

ence of the death penalty and the number of homicides.

It is my own very strong conviction that if it appears that the death penalty has no value as a deterrent of capital crime, the time has arrived when we should discard this archaic method of punishment and adopt in its place a substitute more modern and more scientific. This on the ground of expediency and regardless of the moral or ethical aspects of the problem. Colonel Roosevelt, in his autobiography, says:

> "I am willing to listen to arguments in favor of abolishing the death penalty so far as they are based purely on grounds of public expediency although these arguments have never convinced me."

I have devoted my efforts entirely to this vital phase of the question—the practical side.

Statistics at best are dry and uninteresting; but this is one problem that cannot be comprehensively studied and analyzed without resorting to their use. In any careful consideration of the effect of capital punishment as a deterrent of capital crime, not only does there appear this necessity of statistical research, but I am convinced that some of the results will be so unexpected and so amazing

even to those with a vital interest in the subject, that a certain amount of glamour will be discovered in the dry statistical table.

Theory of Capital Punishment

The fundamental theory of punishment is that it is used for deterrence, for retribution and for reformation, and in the case of capital punishment there is a further basis urged for its retention—the need of eliminating those who menace the life and security of society. Reformation, obviously, cannot be attributed to the use of the death penalty. The argument that capital punishment is necessary as a process of elimination is faulty; it is unscientific in application. The idea of punishment of any type solely as retribution is gradually disappearing, together with other of the older conceptions and theories of criminology. This idea is yielding to the more modern, progressive and scientific attitude, that retribution, a more euphonious word for revenge, is not justification for any system of punishment nor are its results beneficial. It is repressive, not reformative; it ignores social responsibility and disregards all possibility of individualization.

A very serious defect in our application of

capital punishment is the inequality with which it is applied to the rich and to the poor. The defendant of wealth and position, of influence, seldom goes to the electric chair. Through good counsel, through legal technicalities and delay, through influence, he manages to escape death while the man who is friendless and destitute pays the extreme penalty. This statement is borne out by an examination of the data concerning the men who have been executed in this state during the past thirty years. It is a punishment, too, that falls most severely on the family of the offender. The mental and physical suffering of the murderer himself is soon over. Many are of the stoic type, or of such low intellectual development that they are susceptible of little feeling. The mothers, the wives, the sisters are the ones who suffer and for them this suffering continues for months before and for months after the execution. I yield to no one in acknowledging the duty we owe the family of the murderer's victim. But I have very grave doubt whether we have the right to inflict this terrible burden on the innocent family of the murderer, believing as I do that the punishment itself serves no useful purpose either in its primary object of deterring others

or its secondary object of reformation or expiation.

Throughout the whole field of criminology we are coming more and more to advocate the theory of adapting the punishment to fit the criminal rather than to fit the crime. Capital punishment does not permit this. Where it is applied at all, it is applied arbitrarily. We are apt to forget this truth:

"It is not the murderer but the murder, that is the enemy. The primitive method of striking blindly in impotent rage at the life of the offender has had its day, but it still obscures our vision as to the real nature of our problem."[1]

The remaining argument, the deterrent theory of capital punishment, is the one in my opinion which demands the most serious consideration and it is the one to which I propose to devote this paper. This theory rests on the ground of its social necessity—that it is the only effective deterrent of capital crime. It is based on the supposition that life is man's most valued possession. But how many there are who do not fear death, or to whom its remote threat is less impressive, less admonitory than the temptation of some desperate exigency!

[1] George W. Kirchwey, *The Death Penalty.*

"Whether a man will commit crime depends upon his power of resisting evil as compared with the strength of the temptation he is called upon to resist."[1]

Consider how closely prisoners must be watched lest they cheat the law and take their own lives. How inconsistent we are! We impose the death penalty upon the condemned murderer as the severest and most deterrent penalty we can devise, and then for months until the moment of execution we are compelled to watch that man day and night to be sure that he does not inflict upon himself the same penalty that the state prescribes. Recall to your mind reports appearing in the newspapers, not only of murders which appear almost daily, but of numerous promiscuous shootings. They are committed under most trifling provocations, by bootleggers, trying to get away with their wares, by traffickers in drugs, by burglars. In one notorious case two police officers were killed for no better reason than because the offender feared to be beaten up in the police station.

"In the latter part of the year 1915, Police Lieutenant Becker and four gunmen, alleged to have been

[1] Aschaffenburg, German Psychologist and Criminologist, quoted in article on "Parole," *Journal of Criminal Law*, August, 1923.

hired by him, were electrocuted at Sing Sing. Yet, when I was Warden at Sing Sing in the early months of 1916, there were in the death house five men awaiting execution for murders committed under precisely similar circumstances only a few weeks subsequently to the execution of the gunmen."[1]

English history tells us that crime is not prevented because of the death penalty. Pickpockets to whom detection meant death plied their trade through the crowds at public hangings. Do these instances which I have cited show any effect of the fear of death as a deterrent? As I write these words, there comes to my mind the terrible tragedy of the little kidnapped boy whose mutilated body was discovered in New York's East Side and I cannot but wonder how much of a deterrent the fear of the death chair was to the degenerate mind which carried out this crime.

More than a curious coincidence is the fact that several counties in this state had no murder convictions for a number of years, some of them for long periods. Yet when the first conviction for murder occurred, with the subsequent execution of the murderer at Sing Sing, it was immediately followed by a number of murders. As a matter of fact our theory of

[1] George W. Kirchwey, *The Death Penalty.*

capital punishment is both illogical and inconsistent. In this theory it is the *severity* upon which emphasis is laid. We stress the fact that no other punishment is *severe* enough to deter. But many punishments have been devised in the past that were more severe. To be strictly logical, therefore, those who advocate a punishment because of its severity should abolish capital punishment because it is grossly inadequate.

"If the efficacy of punishment be found in its severity such severity must be increased until it results in minimizing crime. We exhibit no faith in our advocacy of severity if we stop short of its limits."[1]

Admission of Weakness as Deterrent

Capital punishment is intended to protect society from murder by its deterring influence. Why weaken this by making it the most humane affair possible under the circumstances—by selecting the quickest and most painless method? Why use the electric chair, or permit the prisoner, if he chooses, to face a firing squad as is done in at least one state? If the deterrent principle of capital punishment is the prime consideration, why not give

[1] Julian P. Alexander, "Philosophy of Punishment." *Journal of Criminal Law*, August, 1922.

to the execution of the condemned the character of a public function, urging the populace to witness the death scene that the spectacle may, perhaps, save them from a crime which otherwise they might be led to commit? The fact that we do not do this, that we make the executions as private and as humane as possible, is an admission that if any influence at all is exerted it must be debasing or positively harmful. If on the other hand it has no influence, then its justification as an example is untenable. I cannot help but think of the story which comes from French Guiana, of Hespel, who was assigned as executioner of the Colony. When convicts were to be put to death, his was the duty of guillotining them. It would seem that he of all men should have felt the deterrent effect, if any existed. Yet he, himself, committed murder and was tried and convicted.

It may be interesting to know that one hundred and thirty-five years ago in Philadelphia, a young physician was advocating some of these theories of penology which we are inclined to regard as of modern origin. Dr. Benjamin Rush opposed publicity of punishment. His tenet was that all public punishment operated to make bad men worse

and to increase crime by the noxious influence of such punishment upon society. Today we endorse this theory only half-heartedly. We make executions as secret as possible, yet we expect them to have a deterrent effect.

I shall pass without further discussion the question whether deterrence is a proper object of punishment and the question of the logic of capital punishment itself, for I am convinced that the death penalty can be defended and justified as a deterrent measure only if it is proven to be necessary and if it is found to be effective. This, I believe, is the crux of the problem. In order to meet this question with intelligence, statistics must be studied with the object of ascertaining whether capital punishment really is a deterrent—whether or not we have been deceiving ourselves with an illusion founded not on facts but on a theory, whether a careful and dispassionate analysis of the evidence will not reveal that we have been blindly following a chimera. This may be because everyone is instinctively horrified by the crime of murder, and because this instinctive feeling, regarding justice as demanding an eye for an eye—the old conception of retaliation—has developed the belief that nothing short of *legalized murder* by the

state will prevent *illegal murder* by the individual. This feeling is well illustrated by a statement in a letter which I have received from a prominent westerner, needless to say an advocate of capital punishment; the italics are mine.

"I am quite firm in my belief that when a person deliberately commits a murder in the first degree, he should forfeit his life—a *just and righteous punishment* for an inexcusable crime."

Then too, we have to contend with the natural conservatism of the legal profession. Lawyers have a great deal to do with our law making, and of course the functioning of legal processes is entirely in their hands. By training they are led to follow precedent. New methods, new departures, experiments in governmental forms and processes are naturally abhorrent to their mental conceptions. As a class they are loath to try anything new, anything that has not the sanction of long usage.

Difficulties of Collecting Statistics

Before entering upon a discussion of the statistical data, it seems to me most important that we should consider for a moment the

difficulties in the path of one who seeks criminological statistics in this country. For without comprehensive data as to what has happened and is happening, how can we come to a true realization of how great a deterrent the death penalty has been in the past and is today? Many writers have assumed that we have no trustworthy statistics. This is not the fact although the task of collecting and tabulating what we have is wearisome and difficult. It was not a source of pride in the thoroughness of our American methods to discover that it was possible to secure with greater celerity and accuracy complete homicide rate statistics from the twenty-five cantons of Switzerland than from our own states or even from a selected two-thirds. The Swiss data covered a period of forty years and the noteworthy fact is that they were ready compiled, whereas in this country such work is, to say the least, spasmodic.

It is most deplorable that this condition exists. But that it does exist everyone who has made the effort will agree. It is most unfortunate that there are no uniform judicial statistics for the country as a whole, statistics which present comprehensive and accurate information, state by state, regarding the

number of homicides, of indictments, of judicial proceedings, convictions, acquittals and sentences. Last June I addressed to the Attorney-General of each state a brief questionnaire covering these points of information. From fourteen states no reply at all was received, and although I followed this with a subsequent inquiry only three finally responded. Half a dozen states replied that it was impossible to give any information. Twelve either referred the inquiry to other departments or suggested other sources. Unfortunately however, no information was forthcoming from any of the suggested sources. The remaining states furnished some of the facts requested in varying degrees of comprehensiveness, but except in a few cases they were so incomplete that no useful tabulation could be made. In attempts to secure this data hundreds of letters have been written, yet the results have been very incomplete; at best a little information from a few states that may be counted on one's fingers.

Centralized Bureau of Statistics

Until information of this nature is collected and tabulated, so that the results may be studied and analyzed, how can we expect any

real progress in our penological methods? We need to secure uniform and complete statistics covering the number of murders committed in each state; how many were judicially acted upon and resulted in indictments; how many were brought to trial and with what results. After sentence is imposed, I am glad to say that the records of the state prisons in many of the states can supply information as to the subsequent disposal of the prisoner, although even data of this character are far from being complete. In some of the states executions are held in counties and no statewide records have ever been kept. We need at once and urgently a complete and comprehensive survey of the whole field to secure the data which I have outlined. In addition there should be installed a centralized federal bureau by which these data in the future may be collected from the various states, classified, tabulated and issued for the use and education of the public. Mr. William Draper Lewis, Secretary of the American Law Institute, emphasizes this need and indicates the remedy:

"What is really needed is a scientific survey of the operation of the administrative agencies charged with the enforcement of law, the detection of wrong-doers, their prosecution and the results of the punishment

inflicted. Scientific investigation of what we may call these social conditions involves time, the expenditure of a great deal of money and the employment of trained persons, and yet is there any other method by which results of value may be had?" [1]

However, efforts have not been entirely unproductive; in spite of difficulties and limitations much accurate statistical information has been obtained, and while I do not affirm that any particular group of figures considered by itself offers conclusive proof that capital punishment is a failure as a deterrent, yet I do maintain that the combined weight of evidence presented by the data secured from many independent sources, each corroborating the other, inclines the scale so strongly that the reflective man is bound to conclude that the death penalty has no apparent effect as a deterrent. This bears out the assertion so often made and which I believe to be true, that the murderer, committing his crime in the heat of passion, gives no thought to the future penalty.

"Most crimes are committed by persons who (1) either expect to evade detection and escape all punishment, or (2) who, upon the spur of the moment, are

[1] Letter printed in *Report of Committee on Law Enforcement*, American Bar Association, 1923.

regardless of all punishment, or (3) who are governed by one or more cosmic, social and individual factors which the utmost rigor cannot remove, and which render the prospect or possibility of punishment wholly inoperative at the time of the commission of the crime." [1]

During the past thirty-four years nearly sixty percent of all the murderers received in Sing Sing under sentence of death were under the age of mature thinking which scientists place at thirty. They were young men who had not stopped to think of the penalty.

Capital Punishment as it Exists Today

Let us consider the actual situation with respect to the imposition of this penalty in the United States today. When we say that capital punishment is the law in forty of our states, which literally is true, we think of it as in general practice and use in those states. Most of us do not realize how infrequently this punishment is actually employed. In thirty-two of these forty states which nominally retain capital punishment on the statute books, the court or the jury has the right to choose between the death penalty and life imprisonment in all cases of convic-

[1] Thomas Speed Mosby, *Causes and Cure of Crime.*

tion of murder in the first degree. Table I presents the states grouped according to their use of the death penalty together with the changes which have occurred since Mr. Bye in his essay showed the comparative situation in 1918.[1] It will be observed that four states, one in the middle west, Missouri, and three in the far west, Washington, Oregon and Arizona, have deserted the abolition column. Their re-adoption of the death penalty occurred soon after the close of the war, and was undoubtedly due partly to its influence, partly to local and temporary conditions which had their effect on public sentiment. As a matter of fact the period of abolition in each case was too short to have presented a fair test; as will be discussed at a later point it appears from such data as I have been able to gather that the restoration of the death penalty had no greater effect as a deterrent, and further that no noticeable increase in homicidal crime occurred during the abolition period (See Table XIII and Chart III). The group of states where the choice is exercised has grown since 1918, eight states having been added, so that we have left today only eight states where the imposition of death is made absolute upon

[1] Raymond T. Bye, *Capital Punishment in the United States.*

conviction of murder in the first degree. Geographically, the practice of permitting the court or jury to choose between death and life imprisonment is very wide spread, except for that small solid group of reactionary, conservative states of which we are the center, Vermont, Massachusetts, Connecticut, New York and Pennsylvania. These states and a few others still cling to the old traditions in this as in so many other lines of progress.

Choice between Capital Punishment and Life Imprisonment

That so many states (80% of those which retain capital punishment) allow the court or jury to select either life imprisonment or the death penalty, is proof of the fact that the sentiment of the vast majority of our people recognizes the existence of a distinction in degree even in premeditated murder; that there are murderers (a great majority if judged by the percentage of those who receive life sentences as compared with those who are condemned to death) who, even in the opinion of its advocates, do not deserve the death penalty. But what man or group of men is qualified to determine the precise point at which this fine line should be drawn; to arrogate to them-

selves sufficient wisdom to say that this man deserves death for his act, whereas the crime of the next man is not quite so shocking or atrocious, he does not quite deserve to forfeit his life? By what measurement, by what rule is this point of demarcation to be found?

Let us examine such statistics as are available to see how this choice actually works out. In fifteen states where the choice is permitted and for which statistics are available, during the eight years from 1912 to 1919 inclusive, there were 1724 persons sentenced either to death or to life imprisonment. Of these, 272 received the death penalty, while 1452 were sentenced to life imprisonment. In the five states above mentioned (p. 24), where the death penalty is absolutely retained, during the same period there were 263 sentences to death and 454 sentences to life imprisonment.[1] Of course, not in all of these cases in the first group was there a direct choice; in both groups many of the sentences to life imprisonment represent convictions for murder in the second degree. But the difference in the ratios is sufficiently impressive to indicate how rarely the death penalty is imposed when there is any opportunity for a choice. In New Jersey

[1] Figures compiled from Tables II and IV.

during the past three years, out of a total of fifty-four first degree murder cases, thirty-nine were sentenced to life imprisonment and only fifteen received the death penalty. Throughout the country as a whole the following data for the year 1910 are illuminating. Although the death penalty was at that time retained in forty-three states, yet of the nine hundred and fifty odd prisoners who in that year were committed for grave homicide throughout the United States, only 12.2 per-cent received the death penalty.[1]

We also find from an examination of the statistics in Tables II, IV and V that there is a slightly higher proportion of sentences, both death and life, to the total number of homicides in states where the choice is given than in the states where the absolute penalty prevails. In the seven states having the choice, where the figures of homicides are available, and in the five states with the arbitrary death penalty, there were in each group approximately 8700 homicides during the eight years. The seven states were New Hampshire, Virginia, Kentucky, Indiana, Washington, Utah and California. In these seven states

[1] United States Census Bureau. *Prisoners and Juvenile Delinquents in the United States.* 1910.

there were 930 sentences of death and life imprisonment combined, a ratio of one sentence to every 9.3 homicides. In the other group there were 717 sentences, a ratio of one sentence to every 12 homicides. If we include with the seven states six abolition states (Maine, Rhode Island, Michigan, Wisconsin, Minnesota and Kansas), we find for the period a total of 11,700 homicides, with a total of 1256 sentences, producing again a ratio of one sentence for every 9.3 homicides. These figures in my opinion are reliably indicative of a somewhat greater facility in obtaining convictions in homicide cases in those states which have abolished the death penalty and in those which permit a choice between the death penalty and life imprisonment than in the ones which cling to the absolute imposition of death.

It is appropriate at this point to consider what substitute can be offered to take the place of the death penalty. Many have been suggested, but the one which is here proposed in my opinion not only meets those objections which are always raised to the substitution of life imprisonment in place of the death penalty but embodies in itself many inherent advantages.

Upon conviction of murder in the first degree, the defendant shall be sentenced to *life imprisonment.*

Prisoners serving life sentences shall receive no time allowance for commutation or compensation until commuted to a definite term.

No prisoner serving a life sentence shall be pardoned or commuted by the Governor until he has served at least twenty years actual time *unless* the Court of Appeals shall make an order or decree in which the majority of its members must concur, to the effect that:

a. Evidence which was not known at the time of the trial or which was not presented to the court or jury creates a probable doubt of the guilt of the accused, or,

b. Facts or circumstances exist which in the opinion of the Court make a case for executive clemency consideration.

After a prisoner shall have served twenty years actual time he shall be eligible for pardon or for commutation to a lesser term than life, and if commuted to a definite term of years, may thereafter earn commutation and compensation.

A substantial percentage of the earnings of the prisoner shall be applied to the support of

his dependants and to the support of the dependants of the person killed, to be apportioned in the discretion of the Superintendent of Prisons.

Experience with the Death Penalty

We are now ready to enter upon the second phase of this study—a consideration of actual experience throughout the country, first with respect to the operation of the death penalty and second with respect to life imprisonment. Viewing the country as a whole, what are the ascertainable facts regarding the imposition and execution of the death penalty? In twenty-three of the states where capital punishment is retained on the statute books accurate statistics of sentences and executions have been secured from the wardens of the state prisons (Tables II, V and IX). During the eight years from 1912 to 1919 inclusive, there were 722 sentenced to death in these states; of this number 512 were subsequently executed. 29.08% after being sentenced to death escaped payment of the final penalty. In the various states the percentage of those sentenced who were subsequently executed ranges from as low as 35% and 37% in Arizona and Utah to as high as 100% in Delaware and

New Hampshire. New York with the largest number sentenced, 145, executed only 61%. Having regard to the number of sentences and the percentage of executions, the record of Pennsylvania was the best, 77 sentenced and of these, 75, or 97%, executed. Yet it is surprising to learn that the homicide rate of Pennsylvania over the period of eight years was the highest in the North Atlantic group of states. Even more striking is the fact that Pennsylvania and Connecticut combined, executed 98 out of 103 who were sentenced (95%) and during the period had a combined homicide rate of 4.7. Massachusetts and New Jersey combined, executed 42 out of 57 (70%) with a combined homicide rate of 3.75. Compare also New York, where 61% of the 145 who were sentenced were executed, with Pennsylvania, where 97% of those sentenced were executed. The New York homicide rate for the period was 4.6, the Pennsylvania rate, 5.7.

Massachusetts and New York Compared

In New York, from 1912 to 1921, inclusive, 193 persons were sentenced to death of whom 117 were subsequently executed. In Massachusetts during the same period 13 were sentenced to death of whom 10 were executed,

yet Massachusetts had a far lower homicide rate, 2.8, as compared with 4.6 for New York. This in spite of the fact that New York, approximately two and two-thirds times the size of Massachusetts in population sentenced to death fifteen times as many murderers and executed eleven times as many. (Table III). In these instances we have not only a greater number of convictions and a greater number of sentences in the states with the higher rates but also greater certainty of execution. It cannot be said that failure to carry out the death sentence had any appreciable influence upon the higher rates

Executions and Homicides

These states have been tabulated with reference to their homicide rates and the percentage of death sentences carried into effect (Table IX); I am unable to trace any connection between the proportion of executions to sentences and the relative standing with reference to homicide rates. In those states where figures of homicides are available, I have computed both the proportion of sentences and the proportion of executions to each one hundred homicides, dividing the eight years into two periods of four years each.

(Tables V and VI). Again it is impossible to trace apparent relation between the homicide rate in any particular state and the existing proportion of sentences and executions per one hundred homicides. Some very striking comparisons exist, however, between different states. Virginia, which has a high homicide rate, executed 4.0 murderers in the first period for each one hundred homicides which occurred, and in the second period, 2.2; whereas Massachusetts, with a homicide rate less than a third the size of Virginia's executed for every one hundred homicides, 1.5 in the first period and 0.5 in the second. This means that in the second period Massachusetts executed one person for every two hundred homicides, Virginia one for every fifty. Indiana, also with a low homicide rate, in the first period executed less than one person per one hundred homicides, in the second period none. In the case of Vermont and New Hampshire we seem at first glance to observe some relation between executions and the number of homicides, inasmuch as Vermont in the first period executed at the rate of 7.4 persons per one hundred homicides and had a very low homicide rate. However, New Hampshire had an equally low rate and exe-

cuted none in the same period, while in the second period, both rates continuing low, conditions were just the reverse, Vermont executing none and New Hampshire at the rate of 8.0 persons per one hundred homicides. It should be kept in mind that none of these figures are for single years; they cover periods of sufficient length so that if executions had any effect on the homicide rate, such effect would be clearly reflected.

Death Sentences and Executions, Proportion to Homicides

These data have been tabulated in Table VI to show the comparative number of homicides to each individual sentenced to death and to each individual executed. The comparisons range from one out of every nineteen who committed homicide sentenced to death in Vermont, to one out of every one hundred and twenty in Indiana; and from one out of every twenty-eight who committed homicide executed in Vermont to one out of every three hundred in Indiana. A graphic summary is presented in Chart VIII covering the data for twelve states which retain capital punishment and for which homicide statistics are complete.

I have made calculations for the United States as a whole from homicide statistics for the Registration Area and from returns of death sentences and executions received from the wardens of the various state prisons. During the first period of four years (1912–1915) there were approximately 13,700 homicides in the twenty-four states for which statistics are available, seven of which are without capital punishment. This is an average of nearly 3500 per year. During the second period (1916–1919) there were approximately 15,950, an annual average of nearly 4000. During the first period there were imposed in the seventeen capital punishment states 227 death sentences, in the second period 256, averaging per year 57 and 64 in the respective periods. The number of these sentences carried into execution were 161 for the first period and 187 for the second, averaging per year 40 and 47. The annual averages for the eight years are 3710 homicides, 60 sentences of death, 43 of which were carried out. Thus, roughly speaking, one out of every eighty-five committing homicide suffers the extreme penalty. These data secured from entirely different sources tend to corroborate Mr. Bye's conclusions:

"Figuring the number of homicides (as based on U. S. mortality statistics) at 7 per 100,000 inhabitants, and taking the population in that year (1917) at 100,000,000, there must have been about 7,000 homicides in the United States in 1917. That means that only one man in eighty who commits a homicide suffers death for it. Taking the five year average of 100 executions annually, it means that for about every 70 homicides one person is hanged or electrocuted. . . . These figures render the deterrent argument in favor of capital punishment extremely weak."[1]

I have said that the murderer rarely considers the penalty. In those rare cases where the future consequences do enter into his mental calculations, he regards himself as almost certain to be one of the eighty-four who escape.

Then too, it frequently happens that when more than one is involved, the guiltiest man, the one who planned and had most to do with committing the crime is the first to seek aid of the authorities. He trades his information and bargains the lives of his confederates for aid and clemency. And because of the inherent difficulty in securing murder convictions, this practice is encouraged by our prosecuting officers. On the other hand I have known a number of men who have been exe-

[1] *Capital Punishment in the United States.*—Raymond T. Bye.

cuted who were morally and ethically innocent of the crime of murder; they were implicated in a felony in the course of which murder was committed and for this paid the penalty which the law prescribed.

Efficiency in England and Canada Contrasted with United States

The British Isles and Canada are often cited as striking examples of countries where the death penalty is a strong deterrent of capital crime. The following facts are quoted from an article on "Recent Statistics Relating to Crime in Chicago" which appeared in the *Journal of Criminal Law* for November, 1922.

"In Canada in two successive years there were for indictable offenses approximately 20% of acquittals and 80% of convictions, while in Chicago in the same time there were approximately 71% of dismissals or acquittals and only 28 or 29 percent of convictions. These statistics present a challenge to the thoughtful citizen. Has the administration of criminal justice in Chicago become so inefficient or corrupt or both that out of every one hundred felony charges, only 28 or 29 result in convictions, whereas in the courts of Canada or in England approximately 75 or 80 out of every one hundred persons tried for similar offenses are found guilty."

A comparison of the very accurate English statistics (Tables XXVIII, XXIX, XXX) with our American figures points very conclusively to the fact that the number of death sentences and the number of executions in proportion to population have little effect in determining the amount of capital crime. We find in England a percentage of death sentences carried into execution noticeably lower than in our own country as a whole or in most of the states individually considered. But on the other hand we cannot fail to be impressed with the remarkable certainty with which judicial action follows the commission not only of crimes of murder but of all crimes.

Part of the English data was secured from the British Home Office and in transmitting it, the Assistant Secretary, Sir Ernley Blackwell, comments as follows:

"The figures should be compared with figures relating to other countries where capital punishment does not exist, and countries where a very large proportion of murders committed do not lead to any arrests being made. The object of the return was really to show how few cases of murder in this country can be classed 'undiscovered' murders, that is to say, murders in which the murderer remains undetected and untraced."

In twelve states of the United States (New Hampshire, Vermont, Massachusetts, Connecticut, New York, Pennsylvania, Virginia, Kentucky, Indiana, Ohio, Utah and California) during the eight years from 1912 to 1919 there were 19,775 homicides, 467 sentences to death and 336 executions (Chart VIII). The population of these twelve states for 1920 was forty-two million. In England and Wales during the eight years from 1913 to 1920 there were 2174 homicides, 184 sentences to death and 99 executions (Table XXIX). The population of England and Wales for 1921 was just under thirty-eight million. In the twelve American states with only twelve percent more population, we find nine times as many homicides, in spite of the fact that there were two and a half times as many persons sentenced to death and three and a half times as many executed. In the United States 71.9% of death sentences were carried into execution; in England and Wales 53.7% of those sentenced were subsequently executed.

In New York State with a population of ten and a half million during the ten years from 1912 to 1921, there were 4626 homicides, 193 sentences to death and 117 executions.

In England and Wales during the same period there were 2668 homicides, 231 sentences to death and 125 executions. There were thus almost as many death sentences and executions in New York as in England and Wales, yet with a population only about a quarter the size, there were 75% more homicides. In New York State 60.6% of death sentences were carried out; in England and Wales only 53.7%.

The efficiency and accuracy of English police methods are proverbial. Statistics show that during ten years in England and Wales there were 1491 murder crimes known to the police (Table XXIX). The number of persons actually tried for murder with respect to these crimes was 548, of whom 237 were convicted, and 231 were sentenced to death. In New York County during five years ending June 30, 1923 there were 303 indictments for murder in the first degree and 12 convictions. In Kings County for four years ending June 30, 1923 there were 136 indictments and 15 convictions.

I have read with great interest a document published by the English Government and secured through the British Library of Information in New York—The Annual Report of Judicial Statistics for England and Wales.

Its careful perusal and study by all who are interested in the attempt to secure more complete and accurate data in this country is well worth while. The statistics on this and the next page have been taken from this document—a striking commentary on the efficiency of the administration of criminal law in England.

In the year 1921 there were 8,934 persons for trial in the chief criminal courts of England and Wales. 1,712 were acquitted, 57 were found insane either on arraignment or by verdict, and in 13 cases there was no prosecution. The remainder, 7,152, were convicted. Of those convicted, 5,243 were sentenced to imprisonment, penal servitude or death (13 to death). 1,745 were placed on probation or in Borstal Institutions and 164 were otherwise disposed of. (Table XXX).

In the courts of Summary Jurisdiction where minor offenses are disposed of, 576,139 persons were tried, of whom 447,827 were convicted. With this very high percentage of convictions there were only 80 appeals in the Courts of Assize and Quarter Sessions, the chief criminal courts (in 31 cases judgment was affirmed and in 49 cases conviction was quashed, including 30 in which other sentences were substituted) and 280 appeals from con-

victions in the minor courts. This is a remarkable testimonial to the efficiency of the police methods and of the judicial machinery.

The following statistics of murder prosecutions offer still further evidence of this efficiency.

	Annual Average 1912–16	*Annual Average 1917–21*	*Year 1921*
Crimes (indictable offenses) of murder known to police..	92	99	90
Persons tried for murder.....	57	68	63
Proportion per 100,000 pop...	0.15	0.18	0.17

Of the total number on trial for murder (1921).....		63
There were found guilty on arraignment.....	7	
Acquitted.....	27	
Special verdict, guilty but insane.....	14	
Death penalty.....	13	
Otherwise disposed of.....	2	
	—	63

Of the 13 persons sentenced to death, 8 were commuted to penal servitude for life.

French Statistics

Table XXXI is a compilation of statistics furnished by the French Ministry of Foreign Affairs. These statistics are noteworthy in that they disclose on the one hand, a very high number of indictments in proportion to homicide, a large proportion of those indicted brought to trial and convicted, and on the other hand a very small proportionate number

of death sentences and of executions. In the four years, 1913, 1919, 1920 and 1921, there were 5719 homicides but only 154 sentences to death, of whom 48 (31%) were subsequently executed. In spite of the small number of death sentences and of the large proportion of those sentenced who failed to be executed, France had a low homicide rate as compared with the United States. We see in France another example of a country with capital punishment, with a low homicide rate, in which very few murder trials result in death sentences and in which a small percentage of death sentences are subsequently carried into execution. In many of our own states with homicide rates twice the size of France's we find far higher proportions of death sentences to homicides and far greater certainty of execution.

My own opinion, which is borne out by statistics, is that the comparatively small number of homicides in Canada and England and in France is due to the accuracy, the certainty and the celerity of justice as administered in those countries rather than to the form or severity of the punishment. We cannot avoid the conclusion that the sureness of detection, reflected in the number of prosecutions in

proportion to crimes, the certainty of punishment reflected in the number of convictions, the celerity and accuracy of punishment, reflected in the few appeals, are the determining factors in the very low proportion of homicidal and other crimes rather than the severity of the punishment which is meted out. The deterrent effect of a law seems not to depend on the ugliness of its threat.

In Kings County from July 1st, 1919 to June 30th, 1923 for the crimes of Assault, Manslaughter, Murder, Robbery, Burglary and Larceny in the various degrees there was a total of five thousand seven hundred and fifteen indictments. The number who pleaded guilty to, or were convicted of, the crime as charged in the indictment, was eight hundred and ninety-one. In New York County for the same crimes and for the period from June 30, 1918 to June 30, 1923 there was a total of fourteen thousand five hundred and eighty-nine indictments from which there resulted twelve hundred and ninety-eight convictions after trial and fifty-one hundred and eighty-six convictions on pleas of guilty. These figures of convictions in New York County include convictions in lesser degree than the offense charged in the indictment so that no

comparison can be drawn between the two counties.

The statistics in Table XIX were secured as a result of correspondence with the Attorneys General and other state officials and so far as they go are probably accurate.

New York State Statistics of Death Sentences

I have no doubt that many persons will be surprised to learn that in our own state, since 1889, a trifle more than one-third (34.9%) of all prisoners who were sentenced to death escaped being executed. From the prison records in the state I have made tabulations as to the age, the nativity and the subsequent disposition of these prisoners. From December, 1889 up to October, 1923, four hundred and fifty-eight persons have been sentenced to death in this state. Of these, two hundred and ninety-eight, or just under 66% were executed and sixteen are now in prison (October 1923) awaiting execution.

A very suggestive fact is that one hundred and twenty-seven of these prisoners were born in Italy. This is especially significant in view of the very low homicide rate in Italy where capital punishment has been abolished for more than thirty years. Two hundred

and sixteen, or not quite one-half of these prisoners were native born; twenty-five were Germans, fifteen were Russians and the remainder were divided among twenty-four nationalities. As to age, the greatest number were between twenty-one and twenty-five, 27% being included in that group. Not quite 8% were twenty years or under and 55% were thirty or under. A complete tabulation of this data for the state as a whole is appended in Table VII.

Life Imprisonment Statistics

In a comprehensive and scientific study of capital punishment it is most important that we should know all that is possible with regard to the life sentence which at present is the only substitute for the death penalty. Because it is axiomatic that we should not abandon the execution of murderers unless we are satisfied that society can be protected at least as well, if indeed not better, by some other method. The reformation of the criminal is most important, but it is secondary in importance to the safety and security of society. I know that a strong impression prevails that life sentences mean little—that the majority of "Lifers," so-called, are released

after serving comparatively short terms in prison either through executive clemency or by court action.

I have been able to secure data from a large majority of the states pertaining to all prisoners sentenced to life imprisonment during the years 1912 to 1919 inclusive, showing their status on January 1, 1923. A questionnaire was sent to the warden of each state prison throughout the United States requesting a statement of the number of persons sentenced to life imprisonment during these eight years and showing as of January 1, 1923, the number who had died or been declared insane, the number commuted, released, or discharged by the courts, and the number who were still in prison on that day. Comprehensive answers were received from three-quarters of our states and this information has been tabulated in Tables IV and IX. In these tables there has been computed for each state the percentage of the total number sentenced to life imprisonment during the period, who were commuted, discharged or otherwise released, and wherever the homicide rate statistics were available, these have also been given for the eight years under consideration.

An examination of Table IV reveals the fact that for the states which have complete statistics there was a total of 2936 persons sentenced to life imprisonment during the eight years, and that of this entire number only 651 had been released by pardon, commutation or court action on January 1st, 1923. (See also Chart VII.) In other words, 77% of these prisoners were still serving their sentences or had died or become insane. A contrast between the number of life prisoners released and the number of death sentences which failed of execution is presented by Table IX and Charts VI and VII. 29% of death sentences failed of execution; 23% of life prisoners were released.

Statistics for New York State

I have made a separate tabulation of similar data for New York State. (Table VIII.) I do not know of any attempt to collect these data for my own state although their value in the study of this problem is obvious. During the eight years from 1912 to 1919, inclusive, there were received in the New York State Prisons under sentence of twenty years to life, or life imprisonment commuted from death, a total of 282 prisoners. Of these,

there were still in prison on January 1st, 1923, 192, or 68.09%. Only 29 (10.29%) had been released by commutation or pardon and 9 (3.19%) by reversal of judgment. 86.15% of the total number received were either in prison on the date mentioned or had died or become insane and were inmates of the Hospital for Criminal Insane. The number of prisoners under sentence of life or twenty years to life who have become insane is astonishingly large. In New York during the period of eight years more prisoners of this class were declared insane than were commuted or pardoned. (11.32% declared insane, 10.29% commuted or pardoned). Not only is this true of this class, but many murderers have been executed who were medically, if not legally insane. There are many border line cases—men who, if they had not committed the particular crime, if they had remained in the outside population would sooner or later have been committed to insane institutions. Murderers may be divided roughly into two groups. First, the usually normal, dependable type, who in a moment of great mental stress commit the crime and who are, except for that one moment of their lives, normal individuals. Second,

the abnormal type, including those really insane, the border line cases, the defectives and moral delinquents and those with low mental development. Many of these latter have a mentality as low as that of a six year old child. These are the ones, without friends and without money, that usually go to the electric chair.

Control of Life Prisoners

So far as the control of these prisoners in the prison is concerned I believe that nearly all wardens are united in agreeing that as a group they constitute the most reliable and dependable men in the institution. In a great majority of cases the murderer is not a criminal in his nature as we ordinarily understand this term. Given places of trust and responsibility, as they often are, these men invariably make good. This is confirmed by Sir Basil Thompson of Scotland Yard, who says:

"You have to be in charge of a prison in order to realize that the murderer is rarely a criminal by nature. But for the Grace of God he is just you or I, only more unlucky. The murderer is repentant and is thinking only how he can earn an honest living after he is discharged; the others are thinking out schemes of fresh adventure."

To the same effect is the testimony of Professor L. N. Robinson in his book, *Penology in the United States*. An editorial in the *Ottawa Citizen* last summer, referring to the action of Governor Donahay of Ohio in taking two life convicts with him on a fishing trip is equally illuminating:

"It should serve as a needed object lesson to those Canadians whose faith in modern prison methods has perhaps been somewhat shaken by the recent Rogers episode. The fact that the Governor was willing to trust himself and his two sons in the company of two convicts serving terms for capital offenses is illustrative of the great advance in the attitude of vested authority towards its charges . . . the Governor's words, 'We never have any trouble with these men; we trust them as ourselves, and in this way many such men have risen from the depths' explains the success of his system."

When we analyze the records of the men convicted of murder we become impressed by the preponderance of those who were never before convicted of any crime. In Sing Sing during six recent consecutive years, 124 men were received under death sentence. Of these, 89 (71.8%) had never before been convicted of crime. 35 (28.2%) had records of previous convictions. Very nearly three out of every

four had committed the crime of murder as a first offense. During five recent consecutive years, 180 inmates of Sing Sing who had been convicted for various degrees of homicide, were paroled after serving the minimum terms of their sentences. Of these 180 men only 3 were brought back for violation of parole, and in these 3 cases the violations were minor ones and the men were compelled to serve only a few additional months. This is truly a remarkable record. During the past twenty years I have personally known a great many men who have been commuted from death to life imprisonment. There is a considerable group in Sing Sing today, and without exception they are quiet, dependable, trustworthy. Many are in places of responsibility and except for that one deed they are in every way fitted and worthy to be normal and useful members of society.

There is however an aspect to the problem which must receive serious consideration—I mean the danger of a prisoner under sentence of life imprisonment committing another murder in the prison. I have no doubt that in some states, in some institutions, it may be considered necessary to retain the death penalty in order to restrain the commission of

such crimes. Under the theory that the state may use what means are necessary, *and no more*, to protect society, we may, perhaps, justify execution for the murderer who commits another murder in prison—for the "born killer" type. But these are few in number. One warden in an abolition state writes me:

"We have at this time twenty-two lifers in this institution and I am free to state that with the exception of two they have the best records in the prison and give us the least trouble. The two serving life terms who are unmanageable are classified as criminally insane, and of course, for this reason the fact that their lives would be taken if they took a life would not prevent them from doing so."

There is disagreement among wardens who favor abolition generally, on this particular question and it is undoubtedly debatable ground. Sufficient data are not available to establish a really definite conclusion.

However, if the punishment for first degree murder which I have outlined (p. 28) was incorporated in the law, I believe this problem would not be presented and there would be no difficulty in controlling the murderer in prison. There would always exist the possibility of commutation *after twenty years' confinement* which would certainly be lost if

another murder was committed. I do not believe the death penalty is any more of a deterrent to the man in prison serving a life sentence than it is to those outside of prison. To the "born killer" type no deterrent is effective. They present the same problem as the dangerous insane and should be controlled in the same manner.

Lynching

A presentation of the case against capital punishment should include at least a brief discussion of the effect of the death penalty upon lynchings. This topic has been very exhaustively treated by Mr. Bye in his essay and I cannot do better than to quote a few of his pertinent findings as to the facts and the conclusions to be drawn from them. He shows that in the twenty-eight years covered by the statistics, the five states that were without capital punishment during that period had a total of 26 lynchings, 20 of which were in Kansas. Maine and Rhode Island had none, Michigan 4 and Wisconsin 2. Minnesota, which abolished capital punishment in 1911 had 4 in the pre-abolition period, none afterward. He presents a table showing the number of lynchings for each state during

the whole period, which it is not necessary to quote in detail. He also presents a table giving the fifteen states which legally executed the greatest number of criminals during the twenty-eight years and points out the fact that included in this list of fifteen states are all but one of the ten states having the greatest number of lynchings to their discredit. Very much to the point he asks this question:

"If capital punishment is the remedy to keep down the number of lynchings, it may pertinently be asked, why is it that the very states which use it the most have the greatest number of lynchings?"

He sums up the whole question of lynchings as affected by capital punishment with this very sane and well-substantiated logical conclusion:

"It has been established, then, that the theory that capital punishment is necessary to prevent the popular demand for stern punishment of certain classes of offenders from breaking out into lynch law has but a limited application, if any. While the prevalence of lynchings in some parts of the country does appear to indicate a belief in retributive justice on the part of the people, it seems to be found only in unstable societies where frontier conditions prevail, or where racial mixtures create a pressing social problem. Practically only the latter of these causes is operative

today in this country. Lynching, therefore, is confined mainly to the Southern states and rests largely on race prejudice. In other parts of the country the abolition of capital punishment has resulted in no increase in lynchings. In the south the death penalty is used more than anywhere else in the United States, yet lynchings have prevailed there to an alarming degree. If there is any validity in the theory that capital punishment prevents lynchings, it has not appeared so here, and it is evident—particularly in view of the trivial nature of the offenses for which many lynchings take place—that if it is to do so it must be used far more extensively than it is at present. It is at least possible that a more certain administration of the criminal law will be as effective in this direction as a more vigorous use of punishment by death. Furthermore, the extension of the death penalty which the theory logically entails is contrary to the trend of evolution and is not likely to take place. Lynchings are decreasing rapidly in frequency, and the problem is apparently solving itself. The lynching argument, therefore, need not stand in the way of the eventual abolition of capital punishment."

General Deductions as to Application

From the foregoing data I believe that at this point we may safely draw a few general conclusions regarding the application of the death penalty.

First. The death sentence is spasmodic and uncertain in its application. No other

punishment lacks to so marked a degree that most important of all elements, certainty of execution.

SECOND. In states where any choice is permitted juries and even courts are loath to impose the extreme penalty of death. While it remains on the statute books, it becomes in practice what has so been aptly termed a vestigial remnant.

THIRD. Life imprisonment is not so uncertain as it has been or is popularly supposed to be, nor is it so difficult of application. It presents the opportunity for individualization of treatment which is a very necessary element in any system of punishment.

FOURTH. There is a somewhat greater facility in obtaining convictions for homicide in abolition states and in those which permit a choice between life imprisonment and the death penalty, than in the states which arbitrarily impose death.

Opinions of Penological Experts

It is appropriate at this point to examine the attitude and opinions of men throughout the country who have given consideration to this problem because of close contact with it in all its phases. Ex-Governor Davis of Ohio,

a thoughtful writer on capital punishment, says:

"Because of the practical obstacles in the way of a universal application of the death penalty in all murder cases or even to all genuinely first degree cases, the certain taking away of the criminal's freedom for life, with an unavoidable minimum of twenty years, would serve as a much more effective warning to a potential murderer susceptible to any kind of warning, than does the mere spasmodic and unequal application of the death penalty as now in operation."[1]

And Professor Bye, in his essay, *Capital Punishment in the United States*, well characterizes our use of this means of punishment:

"The death penalty today is a mere remnant, a left-over from the days when the repressive theory of criminology held sway—a vestigial organ which has ceased to function from lack of exercise. It is too rarely used to prove a very efficacious deterrent, yet its occasional use renders it a ridiculous and purposeless outrage. For as it is now applied, the death penalty is nothing but an arbitrary discrimination against an occasional victim. It cannot even be said that it is reserved as a weapon of retributive justice for the most atrocious criminals. . . .

"Waiving, then, the doubtful question as to whether deterrence is at all a proper object of punishment, the facts and reasoning presented clearly lead to the con-

[1] Harry L. Davis, *Death by Law.*

clusion that the death penalty is not to be defended on the grounds of its deterrent effect. While death is probably as much feared by most men as any punishment, some are of such callous nature that they can never be restrained from crime by the threat of the gallows. Murders in particular are apt to be committed under circumstances which preclude or outweigh the thought of the prospective punishment. Moreover, criminals expect to escape the full penalty of the law. . . .

"Granted that if death were certain to be meted out to every murderer few would be so foolhardy or callous as to incur it, the fact remains it is in practice seldom applied. . . . Reprieves, retrials, commutations and pardons have become so general that few suffer death even after conviction. Statistics show that legal executions have become so rare, in fact, that it is absurd to attribute much deterrent effect to capital punishment as at present applied. It has become in practice a discriminatory persecution retained from a warped sense of justice resting in revenge, and from sheer inertia of conservatism."

Men of prominence in public life, students of criminology through wide experience, those who ponder deeply on these problems and who in life and practice come into close contact with them, are coming more and more to this belief.

The judgment of the Wardens of our prisons as practical men, not as theorists, is entitled

to weight. As a result of correspondence,[1] I have been able to secure opinions on the subject of capital punishment from nearly fifty of the Wardens throughout the country. Of these, seventeen have expressed their verdict against the death penalty; twenty-three are in favor of it and seven give qualified expressions of opinion about evenly divided for and against. If so many of these men who are in closest possible contact with actual conditions have lost faith in the efficacy of the death penalty as a deterrent of crime, is it not time that men and women everywhere who have vision should weigh the evidence and reflect upon the problem without prejudice?

To the Governor of a state the infliction of the death penalty is a matter of very grave concern. It is to him that the last appeal is made, and in consequence, the conscientious man devotes grave consideration to this problem. In the course of personal correspondence with a number of our state executives I have secured many interesting and forceful expressions of opinion. These, together with other opinions and statements have been gathered in Appendix B. I realize of course, that for every opinion against capital punishment one equally strong in its favor may be secured,

and that in a discussion of this character the scales cannot be tipped either way by weight of opinion alone. However, it is always interesting and often constructive to know what others think about any controversy and particularly to know the ideas and ideals of persons who are especially qualified to judge by experience, by training, by close contact and observation.

Personal Opinion

My own conviction against capital punishment is based upon personal experience of twenty years, upon contact with hundreds of murderers whom I have known and with whom I have talked in very solemn moments, upon close observation of what we choose to call "legal execution." I have seen many men die in the electric chair. Under our laws the court sentences the murderer to die "during the week beginning . . ." The actual day and the hour within the week is my responsibility to fix. I alone determine the exact moment when that life shall be extinguished. I always wonder afterward whether the world is any better off; whether what has been done in the name of the law is consistent with the spirit of religion, consistent with the right progress of civilization.

Facts Justifying Opinions

The question now presents itself, how far are these men, how far am I justified in these conclusions by the facts? To answer this question we must review some of these facts as they are indicated by the use of the homicide rate as a barometer.

From statistics furnished by the United States Census Bureau showing the death rate from homicides per one hundred thousand population for the years 1911 to 1921, inclusive, for all states in the Registration Area, I have prepared a series of tables to exemplify a comparison of the combined average homicide rates in various groups of abolition and capital punishment states. For the purpose of this comparison these states have been grouped according to geographical divisions. In the North Atlantic Division are included nine states. Two of these, Maine and Rhode Island, have long since abolished capital punishment; the other seven all retain the death penalty. In the Central Division, Michigan, Wisconsin, Kansas and Minnesota are the abolition states. Missouri tried the experiment in 1917 but restored the death penalty two years later. In the Western Division, Washington abolished capital pun-

ishment in 1913 to restore it again in 1919. Oregon abolished it in 1914 to restore it again in 1920. Restoration in these three states is undoubtedly to be attributed to the after effects of the war and to the generally disturbed and unsettled economic conditions which ensued. In neither state does there appear to have been an increase in the number of murders as reflected in the homicide rates which justified public sentiment in demanding restoration. Oregon is not used in the comparison tables as the homicide figures of that state are available for four years only.

Table X sets forth the combined averages in the North Atlantic Division. It will be observed that the combined average rates in the abolition states are in general lower than in the capital punishment states. The first column of rates shows the combined averages for the two abolition states, Maine and Rhode Island; the second column shows the combined averages for the two states which are similar in population, conditions of industry and general characteristics, New Hampshire and Connecticut. During the first six years of the comparison the rate in the abolition states is slightly higher, but after 1912 except for the two years 1916 and 1921 it remains consistent-

ly below the rate in the capital punishment group. The third column gives the combined average rate for all states in this group which retain the death penalty. This rate is higher throughout but does not present so fair a basis of comparison. The combined average rate over the whole period for the seven states which retain capital punishment is 3.46 as compared with the rate of Maine and Rhode Island at 2.49. The rate for the two comparable states, New Hampshire and Connecticut, is just a fraction over 2.5.

Table XI presents a comparison of the combined average rate for Michigan and Minnesota, abolition states, with that of Ohio and Indiana where the death penalty is retained. The Wisconsin rate has not been used for purposes of comparison, although lower than that of any other state in this group. The four states selected are more comparable in general character both as to population and industrial conditions. Kansas was omitted because the figures were not complete, and Missouri on account of the fact that abolition was tried for two years only making a comparison over the whole period impossible. It will be observed that the average rate in the two abolition states is lower throughout. The

combined average rate for the whole period for Michigan and Minnesota is 3.8 as compared with 6.3 for Ohio and Indiana.

Table XII presents a comparison of the rate for Washington, the only state in the Western Division which tried abolition and which has complete figures for the period, with the combined rates for Montana, Utah, Colorado and California. It should be kept in mind that capital punishment was restored in Washington in 1919. The average rate for Washington for the entire period was 6.6; the combined average rate for the four capital punishment states was 9.7.

Table XIV presents a comparison of the combined average rates for five abolition states (Maine, Rhode Island, Michigan, Kansas and Minnesota) contrasted with the combined average rates for five states comparable in geographical location, character of population and industrial conditions, which have capital punishment. It is perhaps as comprehensively accurate a comparison as can be made considering available homicide statistics, and reveals to a very striking degree the fact that there are less homicides in the abolition states than in those which cling to capital punishment.

Homicide Rate Charts

These combined average rates have also been plotted on charts. (Charts I, II, III, and IV). The broken black line represents the variations from year to year in the combined average rate in the abolition states. The solid black line represents the variation for the capital punishment states. A striking similarity in the variation of the two curves will be noticed. This is particularly true in the Central and Western Divisions and is also characteristic of the Eastern. It is also strikingly true in the comparison of the combined rates of the six abolition states with the rate for the whole Registration Area. (Chart IV). The fact that this variation occurs with considerable coincidence in each group indicates that the increase and decrease from one year to another in the number of homicides is due to general economic or sociological causes rather than to the nature of the penalty imposed for murder. Crime comes in waves like the rising and falling of the tide, waves that are coincident with periods of unrest, with panics, with disturbances of capital and labor, with war. Homicides vary just as other crimes vary and for the same reasons.

"When it is realized and fairly acknowledged that the taking of human life is to some extent an incident in the grouping of people in large communities and happens regardless of the penalty to be visited upon the offender we will have approached very near to the point where the propriety of the extreme penalty can be sanely and judicially determined." [1]

Further light is thrown on the question of the effect of the abolishment of capital punishment by a study of homicide rates in four abolition states of comparatively recent dates, in three of which capital punishment was later restored. Table XIII shows the rates for the three states, Washington, Oregon and Missouri and for Minnesota where it has been abolished since 1911. (See also Chart III.) These figures do not indicate any increase in the number of homicides due to abolition; in fact they indicate quite the reverse. In Washington in 1914, the first year after abolition, there was an increase in the rate from 6.5 to 10.0, but thereafter occurred a regular annual decrease to 4.2. This was the rate in 1918 the year before restoration. After restoration in 1919, 1920 and 1921 the rates were 7.5, 5.1 and 5.9. In Minnesota there has been no increase since 1911, the year of abolition, except in two years.

[1] James J. Barbour, "The Death Penalty." *Journal of Criminal Law.* February, 1919.

The Minnesota rate for this whole period shows, in fact, very little variation, ranging from 2.8 to 3.4 except for the two years mentioned. In Oregon, figures are available for four years only but the rate shows a decided increase since the restoration of capital punishment. In Missouri, abolition was tried for so short a period that it probably had little effect on the homicide rate.

By an examination of the chart of the rates in three states where capital punishment was abolished a few years before the war, in two of which it was later restored largely because of popular reaction following the war (Chart III) we can discern concrete evidence of instances in which generally prevalent sociological and economic conditions were assumed by popular sentiment to be local conditions brought about by the abolition of the death penalty. The increases in the number of homicides in 1919 in Oregon and Washington were locally attributed to the fact that the death penalty was no longer a bogie to deter the murderer and as a result, capital punishment was restored. Governor Davis referring to these instances says:

"Evidence indicates that when the universally noted increase in crime began to make itself evident in these states, by a corresponding rise in the number

of murders, it was immediately attributed to the absence of capital punishment, though in fact, other states where the death penalty was in operation were going through identically the same experience."[1]

The chart shows, however, very plainly that this increase was part of a general trend. The combined rates in the four capital punishment states, Colorado, California, Utah and Montana, increased as did the rate in Minnesota. We also find the same upward curve in both groups in the North Atlantic Division, in the capital punishment group in the North Central Division, and in the combined rate for the whole Registration Area of the United States. In other words what people in these two states hastily and unthinkingly assumed to be an increase in the number of murders, due to the absence of the death penalty—an assumption upon which the successful campaign for restoration of capital punishment was based—was part of a general trend extending throughout the United States.

Homicide Rates by States

A further interesting presentation of the low homicide rates in the abolition states is contained in Tables XVI, XVII and XVIII.

[1] Harry L. Davis, *Death by Law.*

These give in detail the rates for the years 1912 to 1921, inclusive, for all Registration States grouped by geographical divisions, together with the relative position of each state in its respective group in each year. It will be observed that although the homicide rates vary from year to year, there is little variation in the relative position of the states. For instance, in the North Atlantic Division, Maine is first four times, second three times and third three times, while Pennsylvania, at the bottom of the group, is ninth nine times and eighth once. In the Central Division, Wisconsin is first throughout the period and the three abolition states, Wisconsin, Michigan and Minnesota are either first, second or third in every instance except one. This cognation again indicates as a cause of the homicide variation something other than the nature of the penalty.

The averages over the whole period are illuminating. Maine, an abolition state, has for the period of ten years the lowest homicide rate in the country, 1.8. New Hampshire and Vermont where capital punishment is retained are a fraction higher, each having a rate of 1.98. Rhode Island, also an abolition state, with a rate of 3.1 compares with Massa-

chusetts and Connecticut at 2.88 and 3.69 respectively. The figure for Rhode Island is significant in view of the fact that nearly one-third of its inhabitants are foreign born; that it contains a larger proportion of aliens than any other state in the Union. Massachusetts presents a surprisingly low homicide rate for a state containing large congested centers of population—an industrial state comparable with New York and Pennsylvania. (Massachusetts 2.88, New York 4.77, Pennsylvania 5.7.) This is very suggestive when it is considered that in Massachusetts during the last twelve years there have been only thirteen executions.

In the Central Division, Wisconsin, Minnesota and Michigan, abolition states have rates for the period of 2.2, 3.4 and 4.0 respectively, while those of Indiana, Ohio and Illinois (the latter for four years only) are 5.4, 7.1 and 7.8 respectively.

These statistics do not necessarily prove that a lower homicide rate prevails in the abolition states because of the absence of the death penalty. They do, however, furnish further corroboration of the fact that the number of homicides in a geographical area is caused to vary by conditions other than the

existence or non-existence of the death penalty; that the death penalty has little effect, if indeed it has any at all, on the homicide rate.

Homicide Rates in Cities

In an article in the *Spectator* of June 14, 1923, Dr. Frederick L. Hoffman presents a table showing the number of homicides and the homicide rates in seventy-four cities in the United States for the year 1922. There are included the following six cities in states where capital punishment is now abolished. In fact there are no cities in the present abolition states having a population over 100,000, except Kansas City, that are not included

Cities	Population	Homicides	Rate
Grand Rapids	144,084	1	0.7
Milwaukee	478,615	14	2.9
Providence	241,267	8	3.3
Minneapolis	401,095	22	5.5
St. Paul	239,933	16	6.7
Detroit	1,127,046	95	8.4
Totals above six Cities	2,632,040	156	5.9
Totals 68 other cities with capital pun	25,047,398	2,159	8.6
Total for all 74 cities	27,679,438	2,315	8.4

There were six cities throughout the country having no reported homicides for the year.

Four of these were in Massachusetts, one in Connecticut and one in Pennsylvania. Grand Rapids, Milwaukee and Providence, three abolition cities, stood respectively seventh, nineteenth and twenty-third. In comparison with other cities of their own size those in the abolition states more than held their own in relative position.

Method of Homicides
Use of Firearms

Table XV taken from the same article by Dr. Hoffman shows the homicide rates by method for the Registration Area for the years 1910 to 1921. In commenting on this table Dr. Hoffman says:

"The outstanding facts of America's murder record are: first, the excessive proportion of criminals who go entirely unpunished or who fail to receive a punishment proportionate to the seriousness of their offenses; second, the large majority of murders committed by shooting as the result of the ease with which revolvers and ammunition can be secured even where the law prohibits their sale. Individually considered, our murder cases furnish abundant proof that this facility of securing the means of murder is often the immediate cause. That matters in this respect are growing worse is made evident by a return kindly furnished me by the Director of Vital Statistics of the Census, showing

the homicide rate for the Registration Area (about 85% of the total population) for each of the years 1910–1921 by method. This table conclusively proves that the murder problem in the United States is essentially a problem of the wrongful use of firearms, the sale and possession of which require to be made more effectively a matter of control and punishment on the part of the authorities. While a beginning has been made in this direction in a few states there is probably no alternative than congressional action, if a way can be found by which the interstate traffic in revolvers at least can be made subject to federal regulation and control."

Foreign Homicide Statistics

Statistics that I have been able to obtain from foreign countries bear out the assertion that in the United States an abnormally high homicide rate prevails.

Through the courtesy of Doctor Hoffman and through correspondence with our American Consuls, I have secured homicide rate statistics from a dozen or more foreign countries. These statistics have been tabulated (Tables XX to XXVII) and they reveal to a striking degree the very high homicide rates which prevail in our own country as compared with other nations. There are, of course, other factors which enter into this excessively high rate of ours. The United States is a melting

pot for alien races; other countries have no such problems of assimilation as those with which we must contend. The older nations in Europe have laws, customs and institutions that have obtained through centuries, backed by traditions reaching far into the past. These instill into the minds of the peoples a veneration for law, a respect for custom, utterly lacking in our shifting population. It is true there may be some variation in the methods adopted in computing the homicide rates in the various countries. Different classifications may be used. But allowing for these factors, there remains a very marked differentiation between our rates and those abroad from which we cannot fail to draw the deduction that either our form of punishment or our method of application, or perhaps both, are defective.

There has been presented a comparison of rates in the United States with those of foreign countries which retain, as well as those which have abolished, capital punishment, because it is important to emphasize the fact that our own homicide rates are abnormally high, that nowhere else do we find similar conditions, nowhere else do statistics give indication of so much homicidal crime. What a tremendous

contrast exists between the rates in the United States and those in other English speaking countries! We far outstrip England, Scotland and Canada. Our normal rate approaches even the abnormal condition in Ireland in 1920 when the rate rose to 9.5, about nine times its ordinary figure, due to riots and internal disturbances. (Tables XX and XXI.)

Italy

A comparison of rates among the foreign nations which have abolished the death penalty and those which retain it shows no tendency toward higher rates in the abolition group, except possibly in the case of Italy and even that country is far below ours. In Italy since 1910 the homicide rate has not gone above 4.04 per 100,000 population. (Table XXIV). In 1918 it was 2.75 and in 1922 3.48. This is about on a par with Massachusetts, Rhode Island and Minnesota and is far lower than the general rate in the United States. Taken in connection with the very large proportion of Italian nativity among those sentenced to death in our own state, it seems to indicate that even the impulsive Latin is more deterred by life imprisonment than by the threat of death. The Italian rates are also worth study-

ing as indicating no tendency for homicidal crime in that country to increase, and further, as showing a general decrease in the decade from 1910 to 1920 as compared with the previous decade and with the period prior to 1890 when capital punishment existed. Certainly the Italians have experienced no difficulty in controlling murder without the death penalty. The Ministry of Justice in a letter transmitting these statistics, states that no increase in homicidal crime has been noticed since capital punishment was abolished.

Switzerland

From Switzerland I have secured and included in Table XXV complete data for forty years. These statistics present very interesting contrasts with our own figures. A careful study of this table is worth while. It affords in the first place a comparison of conditions over a period of forty years in 10 cantons which retain capital punishment with those in 15 cantons where it is abolished. Analysis of the figures fails to disclose any less homicidal crime in those cantons which retain the death penalty than in those where it has been abolished. In the second place, it furnishes material for serious thought when it is realized

that the lowest rates in our own states are from eight to ten times higher than the rates in the Swiss cantons. The rates in the Swiss tables cover ten year periods, those in the United States are annual. The *lowest* rates in our country are for Maine and New Hampshire, each of which states for single years have been as low as 0.9 and which for ten years averaged annually 1.8 and 1.9 respectively. The *highest* average annual rate in the Swiss table is for the canton of Nidwalden, which for forty years averaged annually 0.29. The annual average for the whole Swiss Republic during the forty years was 0.25. In the 10 cantons having capital punishment there were six executions during the entire period.

Holland and Norway

The rates in Holland and Norway are equally low in comparison with American rates. Holland for 1911–1918 averaged 0.31, Norway for 1910–1919 averaged 0.82. In the corresponding period, 1911–1921, in the registration area of the United States, the average rate was 7.2. (Tables XXII and XXVI).

Cities

Table XXVII presents an interesting comparison of rates in foreign cities as contrasted with the combined rates for all cities in the registration area of the United States. I also have statistics for Brazil where for the five years from 1917 to 1921, the City of Rio de Janeiro had a homicide rate of 5.37. Comparative rates for the same period for five of our largest cities in capital punishment states were, New York, 5.3; Philadelphia, 6.5; Chicago, 10.8; Cleveland, 12.3; St. Louis, 16.9. In tables XXVI and XXVII there is presented a tabulation from these statistics of the average homicide rate for a period of years. Two facts again stand out with prominence. First, the great difference between the rates in the United States and those in all other countries. Second, except for Italy, where the rate is somewhat higher, the abolition nations have as low rates as those which prevail where capital punishment is retained.

Conclusion

From the data which I have collected, from a study of actual conditions over a period of many years in the school of experience, I have come to this very definite conclusion. There

has been in the past and there is to a greater degree today a general trend toward a lessening in the severity of punishment. At times backward steps may be taken, ground may be lost, but the tendency is forward, so that the logical goal must be the complete elimination of the death penalty from our system of punishment. The death penalty rests upon wrong basic principles. It conforms to none of our ideas of modern criminology. It is impossible of scientific application. As a punishment it lacks celerity and certainty of execution. It fails as a deterrent measure.

We have tried capital punishment for many generations in a great majority of our states. Yet we have a homicide rate today—and always have had—to which in comparison with other nations we cannot point with pride. In those states where capital punishment has been abolished the record is better than where it exists. There have been greater increases in homicidal crimes occurring in states which have always retained the death penalty than have ever occurred in states where it has been abolished. It is no new experiment; it has stood the test of years. No claim is made that it will prove a panacea that will effect the cure of homicidal crime, but I do believe that

life imprisonment with a long unavoidable minimum provides a form of punishment that is more certain of application than the death penalty can ever be made, that is more scientific in application because with its long but variable minimum it presents a possibility for individualization and differentiation of treatment; that by reason of these qualities its universal adoption will provide a more effective deterrent.

Appendix A

TABLES AND CHARTS

TABLE I.—SHOWING THE PRESENT STATUS OF CAPITAL IN THE VARIOUS STATES

	New England Division	*Middle Atlantic Division*
States where Capital Punishment is retained conditionally, the court or jury having power to choose between life imprisonment and the death penalty.	NEW HAMPSHIRE	*New Jersey* (2)
States where Capital Punishment is retained absolutely.	VERMONT MASSACHUSETTS CONNECTICUT	NEW YORK PENNSYLVANIA
States where Capital Punishment has been abolished.	MAINE RHODE ISLAND	

NOTE: Mr. Bye in his essay gives a tabulation of this information according to the status at that date (1918). Twelve states had abolished capital punishment, twelve retained the death penalty absolutely and twenty-four retained the death penalty conditionally, permitting the court or jury to choose between it and life imprisonment.

PUNISHMENT AND THE CHANGES WHICH HAVE TAKEN PLACE SINCE THE YEAR 1918

North Central Division	*South Atlantic Division*	*South Central Division*	*Pacific and Mountain Division*
OHIO	*Delaware* (2)	KENTUCKY	MONTANA
INDIANA	MARYLAND	TENNESSEE	IDAHO
ILLINOIS	VIRGINIA	ALABAMA	WYOMING
IOWA	WEST VIRGINIA	MISSISSIPPI	COLORADO
NEBRASKA	SOUTH CAROLINA	LOUISIANA	*Arizona* (1)
Missouri (1)	*Georgia* (2)	*Arkansas* (2)	UTAH
		OKLAHOMA	NEVADA
		TEXAS	*Washington* (1)
			Oregon (1)
			CALIFORNIA
	FLORIDA		NEW MEXICO
	NORTHCAROLINA		
MICHIGAN			
WISCONSIN			
MINNESOTA			
NORTH DAKOTA			
SOUTH DAKOTA			
KANSAS			

Those states in which changes have occurred since 1918 are printed in *italics*.

(1) indicates states which formerly were without capital punishment.

(2) indicates states which formerly retained the death penalty absolutely.

TABLE I (*Continued*)

SUMMARY

1923	
States where capital punishment is retained absolutely	8
States where capital punishment is abolished	8
States where capital punishment is retained conditionally, the court or jury being permitted to choose between life imprisonment and the death penalty	32
1918	
States where capital punishment was retained absolutely	12
States where capital punishment was abolished	12
States where capital punishment was retained conditionally, the court or jury being permitted to choose between life imprisonment and the death penalty	24

TABLE II

Showing the number of prisoners sentenced to death in each state during the years 1912 to 1919, inclusive, the number of those sentenced who were subsequently executed or who died, the percentage of executions and deaths in relation to death sentences, and where available, the average homicide rate for each state for the period.

STATES	Number of Prisoners Sentenced Each Year								Total Number Sentenced to Death During Period	Number of those Sentenced who were Subsequently Executed or who Died	Percentage of Executions and Deaths in relation to Death Sentences	Average Homicide Rate for Period
	1912	1913	1914	1915	1916	1917	1918	1919				
Maine			Abolition									1.80
New Hampshire	0	0	0	0	1	0	1	0	2	2	100%	1.97
Vermont	1	0	0	1	0	0	0	1	3	2	66%	1.97
Massachusetts	5	1	2	1	2	1	0	0	12	9	75%	2.98
Rhode Island			Abolition									3.3
Connecticut	2	4	1	5	2	6	4	2	26	23	88%	3.76
New York	26	11	21	22	11	16	11	27	145	89	61%	4.63
New Jersey	7	9	8	5	4	5	5	2	45	33	73%	4.52
Pennsylvania	0	0	7	10	7	12	21	20	77	75	97%	5.66
Delaware	0	0	0	1	1	3	0	1	6	6	100%	7.7 Note G
Maryland									B	B	B	5.78
Virginia	16	13	12	11	10	6	4	6	78	64	82%	10.95 E
West Virginia	0	4	2	3	2	1	3	2	17	12	70%	Note A
South Carolina	9	10	4	13	8	4	7	6	61	44	72%	12.2 Note F
Georgia									B	B	B	Note A
Ohio	4	3	2	2	1	3	11	8	34	18	53%	7.0
Indiana	1	2	1	2	0	0	0	4	10	4	40%	5.31
Illinois									B	B	B	7.5 Note D
Michigan			Abolition									3.7
Wisconsin			Abolition									2.33
Missouri									B	B	B	9.7
Kansas			Abolition									6.7 H
Iowa	0	0	0	0	0	0	0	0	0	0	0	Note A
Nebraska	0	0	1	1	1	0	2	0	5	2	40%	Note A
Minnesota			Abolition									3.29
North Dakota			Abolition									Note A
South Dakota			Abolition									Note A

TABLE II (*Continued*)

STATES	Number of Prisoners Sentenced Each Year							Total Number Sentenced to Death During Period	Number of those Sentenced who were Subsequently Executed or who Died	Percentage of Executions and Deaths in relation to Death Sentences	Average Homicide Rate for Period
	1912	1913	1914	1915	1916	1917	1918	1919				
KENTUCKY	3	9	1	5	1	4	3	6	32	22	68%	11.33
LOUISIANA	10	7	5	7	3	5	9	c	46	30	65%	Note A
TEXAS									B	B	B	Note A
NEW MEXICO	2	1	0	1	10	1	0	1	16	15	93%	Note A
ARIZONA	2	3	4	2	2	0	0	1	14	4	29%	Note A
WYOMING	3	1	0	5	0	0	0	0	9	4	44%	Note A
NEVADA	1	2	1	0	0	1	0	0	5	2	40%	Note A
IDAHO	0	0	0	0	0	0	0	0	0	0	0	Note A
UTAH	0	0	1	2	2	1	1	1	8	3	37%	6.76
MONTANA									B	B	B	12.95
WASHINGTON	1	1	Note K						2	1	50%	6.91
OREGON	8	3	1	Note L					13	7	54%	4.5 D
CALIFORNIA	7	5	6	11	3	2	13	9	56	41	73%	11.6

NOTES

A—No homicide rate statistics.
B—Executions held in counties, no state-wide figures.
C—Executions after 1918 held in counties.
D—Rates are for 1918–1919.
E— " " " 1913–1919.
F—Rates are for 1916–1919.
G— " " " 1919.
H— " " " 1914–1919.
K—Capital punishment abolished in 1913.
L—Capital punishment abolished in 1914.

TABLE III

Comparison of Death Sentences, Executions and Homicide Rates—New York and Massachusetts, 1912 to 1921, inclusive.

Year	Massachusetts			Year	New York		
	Death Sentences	*Executions*	*Homicide Rate*		*Death Sentences*	*Executions*	*Homicide Rate*
1912	5	4	3.0	1912	26	19	5.1
1913	1	1	3.1	1913	11	7	5.2
1914	2	1	3.3	1914	21	16	4.8
1915	1	1	3.3	1915	22	11	4.6
1916	2	1	3.2	1916	11	6	4.5
1917	1	1	2.9	1917	16	10	4.3
1918	0	0	2.3	1918	11	5	4.0
1919	0	0	2.8	1919	27	15	4.6
1920	1	1	2.1	1920	14	10	4.6
1921	0	0	2.8	1921	34*	18	4.9
Totals	13	10	2.8	Totals	193	117	4.6

Notes: *Three are still in death house awaiting execution at the time this table is under preparation.

In connection with this table it should be noted that New York has a population approximately 2.7 times that of Massachusetts.

TABLE IV

Showing the number of prisoners sentenced to life imprisonment in each state during the years 1912 to 1919, inclusive: the status of these prisoners on January 1st, 1923, including the number who have been released and the number in prison on that date; the percentage of the total number sentenced who have been released by commutation, pardon or otherwise than by death or insanity; in each period where available, the average homicide rate for the period.

STATES	Number of Prisoners Sentenced to Life Imprisonment									On January 1st, 1923, the Status of These Prisoners Was				*Percentage of Total Number Commuted, Discharged, or Released*	*Average Homicide Rate for the Period*
	1912	1913	1914	1915	1916	1917	1918	1919	*Total*	*Died*	*Declared Insane*	*Released by Commutation or Otherwise*	*Still in Prison*		
Maine	3	5	1	7	4	2	1	3	26	2	1	5	18	19%	1.80
New Hampshire	0	3	0	4	0	1	0	1	9	0	0	0	9	0%	1.97
Vermont	0	0	3	1	1	2	0	2	9	0	0	0	9	0%	1.97
Massachusetts	9	6	14	10	12	14	10	7	82	6	13	5	58	6%	2.98
Rhode Island	2	0	0	2	0	1	0	2	7	0	0	1	6	14%	3.3
Connecticut	2	7	5	2	7	8	9	13	53	7	1	2	43	4%	3.76
New York	33	32	30	37	33	42	22	53	282	19	32	39	192	14%	4.63
New Jersey	0	0	0	0	2	15	14	10	41	1	7	1	32	2½%	4.52
Pennsylvania	8	5	10	6	0	4	4	5	42	4	3	7	28	16%	5.66
Delaware	2	2	2	1	3	4	1	6	21	4	1	1	15	5%	7.7 F
Maryland	3	3	9	5	7	4	10	19	60	8	3	3	46	5%	5.78
Virginia	0	0	7	7	12	4	9	23	62	1	4	4	53	6%	10.95 C
West Virginia	16	8	13	15	14	25	18	11	120	B	B	B	76	B	Note A
So. Carolina	17	13	12	15	12	10	12	14	105	11	2	38	54	36%	12.2 E
Indiana	27	30	18	21	28	27	18	23	192	16	14	38	124	19%	5.31
Illinois	23	23	32	28	33	30	28	39	236	15	18	40	163	17%	7.5 D
Michigan	9	5	11	9	9	9	12	10	74	6	12	25	31	33%	3.7
Wisconsin	11	3	6	5	6	6	4	10	51	5	9	11	26	21%	2.33
Missouri	20	27	23	30	22	25	12	22	181	15	5	54	107	29%	9.7
Kansas	8	6	8	9	17	9	11	8	76	8	0	22	46	29%	6.7 G
Iowa	10	16	13	9	12	12	6	19	97	3	4	29	61	29%	Note A

TABLE IV—(*Continued*)

STATES	Number of Prisoners Sentenced to Life Imprisonment									On January 1st, 1923, the Status of These Prisoners Was				Percentage of Total Number Commuted, Discharged, or Released	Average Homicide Rate for the Period
	1912	1913	1914	1915	1916	1917	1918	1919	Total	Died	Declared Insane	Released by Commutation or Otherwise	Still in Prison		
Nebraska	6	2	8	8	9	6	6	8	53	3	4	7	39	13%	Note A
Minnesota	8	15	15	7	14	14	12	7	92	10	15	13	54	14%	3.29
No. Dakota	1	0	6	4	2	2	1	1	17	0	0	6	11	35%	A
So. Dakota	0	1	4	0	0	0	1	1	7	0	1	1	5	14%	A
Kentucky	11	35	22	10	18	8	10	4	118	12	3	41	62	34%	11.33
Louisiana	41	45	45	42	40	44	38	55	350	32	4	116	198	33%	A
New Mexico	2	1	0	0	2	4	1	0	10	1	1	1	7	10%	A
Arizona	14	9	2	1	1	9	13	10	59	3	2	25	29	42%	A
Wyoming	1	4	7	4	4	7	3	7	37	3	0	15	19	40%	A
Nevada	2	4	5	1	0	2	1	5	20	1	0	11	8	55%	A
Idaho	0	2	1	3	3	5	1	2	17	2	0	0	15	0%	A
Utah	1	0	5	3	3	4	1	1	18	0	1	15	2	83%	6.76
Montana	5	4	5	3	2	4	3	2	28	2	1	14	11	50%	12.95
Washington	2	2	11	10	6	2	7	9	49	6	4	7	32	14%	6.91
Oregon	9	5	9	7	3	11	7	10	61	4	2	27	28	44%	4.5 D
California	36	27	35	38	41	49	29	38	293	21	4	27	238	9%	11.6

NOTES

A—No homicide rate statistics.
B—Records are incomplete.
C—Rate for years 1913–1919
D— " " " 1918–1919.
E—Rate for years 1916–1919.
F— " " " 1919.
G— " " " 1914–1919.

TABLE V

Showing for two periods of four years each (1912–1915 and 1916–1919) the number of homicides in each period, the number of persons sentenced to death, of those sentenced the number who were subsequently executed, the number of death sentences per 100 homicides, the number of executions per 100 homicides and the homicide rate.

STATES	PERIOD	*Number of Homicides During Period*	*Number Sentenced to Death*	*Of those Sentenced, the Number Executed*	*Death Sentences per 100 Homicides*	*Executions per 100 Homicides*	*Homicide Rate per 100,000 Population*
MAINE.....	1912–1915	71		ABOLITION			2.35
	1916–1919	38					1.25
NEW HAMPSHIRE.	1912–1915	44	0	0	0	0	2.5
	1916–1919	25	2	2	8.0	8.0	1.4
VERMONT.....	1912–1915	27	2	2	7.4	7.4	1.90
	1916–1919	29	1	0	3.44	0	2.05
MASSACHUSETTS..	1912–1915	451	9	7	1.99	1.55	3.2
	1916–1919	417	3	2	0.74	0.48	2.8
RHODE ISLAND...	1912–1915	73		ABOLITION			3.3
	1916–1919	78					3.3
CONNECTICUT....	1912–1915	171	12	11	7.01	6.43	3.5
	1916–1919	212	14	12	6.6	5.66	4.0
NEW YORK.....	1912–1915	1887	80	53	4.23	2.80	4.9
	1916–1919	1744	65	36	3.72	2.06	4.3
NEW JERSEY.....	1912–1915	466	29	18	6.22	3.86	4.2
	1916–1919	584	16	13	2.74	2.22	4.8
PENNSYLVANIA...	1912–1915	1583	17	16	1.07	1.01	4.9
	1916–1919	2170	60	57	2.76	2.62	6.4
DELAWARE.....	1912–1915			NOTE 2			
	1916–1919	17	1	1	5.88	5.88	7.7
MARYLAND.....	1912–1915	271		NOTE 1			5.3
	1916–1919	351					6.2
VIRGINIA (Note 3)	1912–1915	767	36	31	4.69	4.04	11.8
	1916–1919	924	26	21	2.81	2.27	10.3

TABLE V (*Continued*)

STATES	PERIOD	*Number of Homicides During Period*	*Number Sentenced to Death*	*Of those Sentenced, the Number Executed*	*Death Sentences per 100 Homicides*	*Executions per 100 Homicides*	*Homicide Rate per 100,000 Population*
KENTUCKY.....	1912–1915	1169	18	14	1.54	1.19	12.5
	1916–1919	968	14	8	1.44	0.82	10.2
MICHIGAN.....	1912–1915	402	ABOLITION				3.2
	1916–1919	585					4.2
WISCONSIN.....	1912–1915	245	ABOLITION				2.5
	1916–1919	223					2.1
MINNESOTA.....	1912–1915	301	ABOLITION				3.4
	1916–1919	294					3.1
KANSAS.....	1912–1915	225	NOTE 4				6.5
	1916–1919	474	ABOLITION				6.8
OHIO.....	1912–1915	1187	11	5	0.92	0.42	5.8
	1916–1919	1822	23	13	1.26	0.71	8.2
INDIANA.....	1912–1915	617	6	4	0.97	0.64	5.5
	1916–1919	583	4	0	0.68	0	5.1
MISSOURI.....	1912–1915	1212	NOTE 1				9.07
	1916–1919	1422					10.52
WASHINGTON.....	1912–1915	400	ABOLITION				8.1
	1916–1919	297					5.7
MONTANA.....	1912–1915	214	NOTE 1				12.1
	1916–1919	279					13.7
UTAH.....	1912–1915	139	3	1	2.15	0.71	8.6
	1916–1919	85	5	2	5.88	2.35	4.9
CALIFORNIA.....	1912–1915	1400	29	20	2.07	1.43	12.6
	1916–1919	1354	27	19	1.99	1.40	10.6

NOTES

The number of homicides in the first period are taken from the table in Mr. Bye's essay, in the second period from the report of the U. S. Census Bureau. Homicides rates are taken from tables of the U. S. Census Bureau. The number of sentences and of executions are taken from reports of the wardens of the various state prisons. The computations are made from these data.

(1) Executions are held in counties—no state-wide figures.
(2) Figures are available for 1919 only.
(3) Figures in first period are for 1913, 1914 and 1915.
(4) Figures in first period are for 1914 and 1915.

TABLE VI

From the data in the foregoing table (V) there has been computed for the whole period of eight years the proportionate number who committed homicide to each person sentenced to death and to each person executed. The states are arranged in order of the homicide rates. It is to be noted that there is no appreciable relation between the homicide rate and the number of sentences or the number of executions in proportion to homicides.

States	*Number of Homicides in Proportion to Each Person Sentenced to Death*	*Number of Homicides in Proportion to Each Person Executed*	*Homicide Rate*
New Hampshire	35	35	1.97
Vermont	19	28	1.97
Massachusetts	72	96	2.98
Connecticut	14	17	3.76
New Jersey	23	34	4.52
New York	25	40	4.63
Indiana	120	300	5.31
Pennsylvania	49	51	5.66
Utah	28	75	6.76
Ohio	88	166	7.0
Delaware (1 year)	17	17	7.7
Virginia	27	32	10.95
Kentucky	67	97	11.33
California	49	70	11.6

TABLE VII

Showing statistics as to all prisoners sentenced to death in the State of New York from December, 1889, to October, 1923, with particular reference to Nativity, Age and the Subsequent Disposition.

I. Nativity

United States	216
Italy	127
Germany	25
Russia	15
Unknown	19
Divided among 24 nationalities	56
Total number received	458

II. Age

Sixteen to twenty	37
Twenty-one to twenty-five	123
Twenty-six to thirty	93
Thirty-one to thirty-five	70
Thirty-six to forty	54
Forty-one to forty-five	24
Forty-six to fifty	16
Fifty to sixty	14
Over sixty	7
Unknown	20
Total number received	458

III. Subsequent Disposition

Executed	298
Died	4
Insane	13
Escaped and drowned	2
Commuted to life, pardoned, etc.	70
Judgment reversed and found not guilty	10
Judgment reversed; received prison term	34
Judgment reversed; awaiting disposition	11
In prison awaiting execution (October, 1923)	16
Total number received	458

TABLE VIII

Summary of all prisoners in the State of New York sentenced to twenty years to life, or commuted from death to life imprisonment during the years 1912 to 1919, inclusive, showing their status as of January 1st, 1923.

		1912	1913	1914	1915	1916	1917	1918	1919	*Total*	*Per Cent Distribution*	
Total number received each year under sentence		33	32	30	37	33	42	22	53	282	100%	
Of the number sentenced each year the status on Jan. 1st, 1923, was as follows:	There had been released by commutation, pardon, etc.	7	3	3	11	1	2	0	2	29	10.29%	13.84%
	Escaped	1	0	0	0	0	0	0	0	1	0.36%	
	Judgment reversed	1	2	1	1	1	3	0	0	9	3.19%	
	There had died	1	2	4	4	2	4	0	2	19	6.74%	86.15%
	Declared insane	3	3	4	4	3	5	4	6	32	11.32%	
	There were still in prison on Jan. 1, 1923	20	22	18	17	26	28	18	43	192	68.09%	

TABLE IX

Showing by states, arranged in order of homicide rates, for the eight years, 1912 to 1919, inclusive, the number of prisoners sentenced to death, the percentage of those sentenced who failed to be executed, the number sentenced to life imprisonment, and the percentage of those sentenced who were commuted or released prior to January 1st, 1923.

STATES	*Homicide Rate*	Death Sentences		Life Sentences	
		Number Sentenced to Death	*Percentage Failed to be Executed*	*Number Sentenced to Life Imprisonment*	*Percentage Released, Commuted etc.*
Maine	1.80	Abolition		26	19%
New Hampshire	1.97	2	0%	9	0%
Vermont	1.97	3	33%	9	0%
Wisconsin	2.33	Abolition		51	21%
Massachusetts	2.98	12	25%	82	6%
Minnesota	3.29	Abolition		92	14%
Rhode Island	3.3	Abolition		7	14%
Michigan	3.70	Abolition		74	33%
Connecticut	3.76	26	12%	53	4%
Oregon (6)	4.45	13	46%	61	44%
New Jersey	4.52	45	27%	41	2½%
New York	4.63	145	39%	282	14%
Indiana	5.31	10	60%	192	19%
Pennsylvania	5.66	77	3%	42	16%
Maryland	5.78	(Note 1)		60	5%
Kansas	6.7	Abolition		76	29%
Utah	6.76	8	63%	18	83%
Washington	6.91	(Note 2)		49	14%
Ohio	7.0	34	47%	Note 7	
Illinois	7.5 (3)	Note 1		236	17%
Delaware	7.7 (4)	6	0%	21	5%
Virginia	10.9	78	18%	62	6%
Kentucky	11.3	32	31%	118	34%
California	11.6	56	27%	293	9%
So. Carolina	12.2 (5)	61	28%	105	36%
Montana	12.9	Note 1		28	50%

TABLE IX (*Continued*)

STATES	*Homicide Rate*	DEATH SENTENCES		LIFE SENTENCES	
		Number Sentenced to Death	*Percentage Failed to be Executed*	*Number Sentenced to Life Imprisonment*	*Percentage Released, Commuted etc.*
	States where homicide rates are not available.				
IOWA.....		0		97	29%
SO. DAKOTA....		Abolition		7	14%
NO. DAKOTA....		Abolition		17	35%
LOUISIANA.....		46	35%	350	33%
ARIZONA.....		14	71%	59	42%
WYOMING.....		9	56%	37	40%
IDAHO.....		0		17	0%
NEVADA.....		5	60%	20	55%
NEBRASKA.....		5	60%	53	13%
NEW MEXICO...		16	7%	10	10%

NOTES

(1) Executions are held in counties—no state-wide figures.
(2) There were two sentences and one execution prior to abolition in 1913.
(3) Homicide rates for 1918–1919.
(4) " " " 1919.
(5) " " " 1916 to 1919 inclusive.
(6) " " " 1918–1919; sentences for 1912, 1913, 1914, prior to abolition in 1914.
(7) No data for life sentences.

TABLE X

Comparison of Homicide Rates, North Atlantic Division

Combined average rates per 100,000 of population for Maine and Rhode Island, abolition states, compared with New Hampshire and Connecticut, two states which retain capital punishment and which are similar in general character and geographical location. The third column gives the combined average rate for all seven capital punishment states in this division, Vermont, New Hampshire, Massachusetts, Connecticut, New York, New Jersey and Pennsylvania.

Year	*Average Rate, Maine and Rhode Island*	*Average Rate, Connecticut and New Hampshire*	*Average Rate for Seven Cap. Pun. States*
1906	2.0	1.9	2.6
1907	3.2	1.7	3.2
1908	2.6	2.1	3.3
1909	2.0	2.4	3.3
1910	2.9	1.6	3.1
1911	3.0	2.6	3.9
1912	2.4	2.5	3.2
1913	3.1	3.5	3.9
1914	2.8	3.2	3.6
1915	2.7	2.9	3.5
1916	2.5	2.1	3.5
1917	2.3	3.3	4.0
1918	1.8	2.3	3.4
1919	2.4	3.0	3.7
1920	1.6	2.8	3.5
1921	2.6	2.6	3.7

Homicide rates in this and following tables are computed from a table showing death rate from homicides per 100,000 population in the Registration Area furnished by United States Census Bureau.

TABLE XI

Comparison of Homicide Rates, North Central Division

Combined average rates per 100,000 of population for Michigan and Minnesota, abolition states, compared with Ohio and In-

diana, two states which retain capital punishment and which are similar in general character and geographical location.

Year	*Average Rate for Minnesota and Michigan*	*Average Rate for Ohio and Indiana*
1910	2.9	4.5
1911	3.1	5.0
1912	2.7	5.2
1913	3.5	5.7
1914	3.8	6.1
1915	3.2	5.5
1916	3.5	6.4
1917	4.5	7.9
1918	2.9	6.3
1919	3.7	6.0
1920	4.3	5.8
1921	4.6	7.1

TABLE XII

COMPARISON OF HOMICIDE RATES, WESTERN DIVISION

The homicide rates per 100,000 of population for Washington, where capital punishment was abolished from 1913 to 1919, compared with the combined average rates for Montana, Colorado, Utah and California, states which retain capital punishment.

Year	*Rate in Washington*	*Average Rate in Four Capital Pun. States*
1912	7.2	11.2
1913	6.5	10.5
1914	10.0	12.9
1915	8.9	10.7
1916	5.5	11.1
1917	5.5	11.4
1918	4.2	7.4
1919	7.5	8.1
1920	5.1	7.7
1921	5.9	8.9

TABLE XIII

Homicide rates per 100,000 of population in four states where capital punishment has been abolished since 1910, and in three of which (Washington, Missouri and Oregon) it was later restored. The years in which capital punishment was abolished are shown in heavy faced type.

Washington		Minnesota	
Year	*Rate*	*Year*	*Rate*
1911	7.5	1910	3.3
1912	7.2	1911	3.9
1913	6.5	1912	2.8
1914	10.0	1913	3.0
1915	8.9	1914	4.5
1916	5.5	1915	3.4
1917	5.5	1916	3.3
1918	4.2	1917	3.3
1919	7.5	1918	2.9
1920	5.1	1919	3.2
1921	5.9	1920	3.1
		1921	4.4

Missouri		Oregon	
Year	*Rate*	*Year*	*Rate*
1911	9.2	1918	4.0
1912	7.8	1919	4.9
1913	9.9	1920	4.1
1914	9.3	1921	7.7
1915	9.3		
1916	10.0		
1917	12.3		
1918	10.1		
1919	9.7		
1920	7.9		
1921	10.1		

TABLE XIV

Showing combined average homicide rates per 100,000 population for five abolition states (Maine, Rhode Island, Michigan, Kansas, Minnesota) compared with the combined average rates of five capital punishment states, similar in location, and character of population and industrial conditions (New Hampshire, Connecticut, Ohio, Indiana, Missouri.)

Year	*Rate in Abolition Group*	*Rate in Capital Punishment Group*
1914	3.94	5.60
1915	3.72	5.24
1916	3.98	5.44
1917	4.10	6.96
1918	3.10	5.48
1919	3.82	5.56
1920	3.30	5.04
1921	4.40	5.88
General average over period	3.79	5.65

TABLE XV

Table showing homicides by method. Rates per 100,000 of population in the Registration Area of the United States. (This table is taken from an article by Dr. F. L. Hoffman in the Spectator, June 14th, 1923).

Year	*Total Rate*	*Firearms*	*Cutting or Piercing*	*Other Methods*
1910	5.9	3.4	0.8	1.6
1911	6.6	4.0	1.1	1.6
1912	6.6	4.1	1.0	1.5
1913	7.2	4.5	1.1	1.7
1914	7.4	4.7	1.1	1.6
1915	7.0	4.3	1.0	1.7
1916	7.1	4.5	1.0	1.6
1917	7.7	5.1	1.0	1.6
1918	6.8	4.6	0.8	1.3
1919	7.5	5.4	0.8	1.3
1920	7.1	5.1	0.7	1.2
1921	8.5	6.2	0.9	1.4

TABLE XVI

Showing the Homicide rates of the nine states in the North Atlantic Division for the years 1912 to 1921, inclusive, together with the relative position of the states in each year. Those in which capital punishment has been abolished are printed in heavy faced type.

The first column in each year indicates the relative position of the state in that year. The last two columns of the table give the averages and the relative standing over the whole period.

STATES	1912		1913		1914		1915		1916		1917		1918		1919		1920		1921		*Average for Ten Years*	
	Relative Position	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*
Vermont.....	1	1.1	1	2.5	2	2.0	1	2.0	3	2.5	2	1.7	3	2.0	3	2.0	5	2.3	1	1.7	3	1.9
New Hampshire	2	1.4	4	3.2	3	3.2	2	2.3	2	1.4	3	2.3	1	0.9	1	1.1	2	1.8	2	2.2	2	1.9
Maine.....	**3**	**2.1**	**2**	**2.9**	**1**	**2.0**	**3**	**2.4**	**1**	**1.2**	**1**	**0.9**	**2**	**1.3**	**2**	**1.6**	**1**	**1.4**	**3**	**2.2**	**1**	**1.8**
Rhode Island..	4	2.7	5	3.4	6	3.7	4	3.1	6	3.8	5	3.7	5	2.4	5	3.3	3	1.8	6	3.1	5	3.1
Massachusetts .	5	3.0	3	3.1	5	3.3	5	3.3	5	3.2	4	2.9	4	2.3	4	2.8	4	2.1	4	2.8	4	2.9
Connecticut....	6	3.5	6	3.9	4	3.2	6	3.5	4	2.9	6	4.3	6	3.8	8	5.0	6	3.9	5	2.9	6	3.7
New Jersey....	7	4.2	7	4.3	7	4.0	7	4.3	7	3.9	8	6.1	8	4.8	6	4.6	7	4.2	8	5.2	7	4.5
Pennsylvania...	8	4.5	9	5.4	9	4.9	9	4.9	9	6.4	9	6.7	9	6.5	9	6.0	9	5.6	9	6.3	9	5.7
New York.....	9	5.1	8	5.2	8	4.8	8	4.6	8	4.5	7	4.3	7	4.0	7	4.6	8	4.6	7	4.9	8	4.7

TABLE XVII

Showing the Homicide rates of the eight states in the North Central Division for the years 1912 to 1921, inclusive, together with the relative position of the states in each year. The states in which capital punishment has been abolished are printed in heavy faced type.

The first column in each year indicates the relative position of the state in that year. The last two columns of the table give the averages and the relative standing over the whole period. The averages for Kansas and Illinois cover the years for which the rates are given. In Missouri, capital punishment was abolished in 1917, restored in 1919.

STATES	1912		1913		1914		1915		1916		1917		1918		1919		1920		1921		*Average for Ten Years*	
	Relative Position	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*
Wisconsin	1	2.7	1	2.2	1	3.0	1	2.2	1	1.6	1	3.2	1	1.9	1	1.9	1	1.7	1	2.2	1	2.3
Michigan	2	2.7	3	3.9	2	3.2	2	3.0	3	3.8	3	5.7	3	3.0	3	4.3	5	5.5	3	4.8	3	4.0
Minnesota	3	2.8	2	3.0	3	4.5	3	3.4	2	3.3	2	3.3	2	2.9	2	3.2	2	3.1	2	4.4	2	3.4
Kansas					5	6.3	6	6.7	5	7.8	5	6.9	5	5.9	5	6.7	3	4.7	5	7.5	5	6.6
Indiana	4	4.8	4	5.6	6	6.5	4	5.2	4	5.0	4	6.6	4	4.1	4	4.7	4	4.7	4	6.4	4	5.4
Ohio	5	5.6	5	5.8	4	5.8	5	5.9	6	7.9	6	9.3	7	8.5	6	7.3	6	6.9	6	7.8	6	7.1
Missouri	6	7.8	6	9.9	7	9.3	7	9.3	7	10.0	7	12.3	8	10.1	8	9.7	8	7.9	8	10.1	8	9.6
Illinois													6	6.6	7	8.5	7	7.4	7	8.8	7	7.8

TABLE XVIII

Showing the Homicide rates of the six states in the Western Division for the years 1912 to 1921, inclusive, together with the relative position of the states in each year. The figures printed in heavy faced type indicate the years in which capital punishment was abolished in Washington and Oregon. The first column in each year indicates the relative position of the state in that year. The last two columns give the averages and the relative standing over the whole period.

STATES	1912		1913		1914		1915		1916		1917		1918		1919		1920		1921		*Average for Ten Years*	
	Relative Position	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*	*Relative Position*	*Homicide Rate*
Washington	1	7.2	1	6.5	**2**	**10.0**	**2**	**8.9**	**1**	**5.5**	**1**	**5.5**	**3**	**4.2**	3	7.5	3	5.1	2	5.9	3	6.6
Utah	2	7.4	2	8.5	1	9.8	1	8.7	2	7.1	2	6.3	1	1.8	1	4.5	2	5.1	1	5.2	2	6.4
Oregon													**2**	**4.0**	**2**	**4.9**	1	4.1	4	7.7	1	5.2
Colorado	3	9.9	5	11.9	5	16.0	3	10.6	3	8.2	3	8.9	4	7.5	6	10.6	6	9.2	6	11.8	4	10.5
California	4	13.4	4	11.6	4	13.2	5	12.2	4	11.6	4	12.2	5	9.4	5	9.4	4	8.2	**5**	11.6	5	11.3
Montana	5	14.2	3	10.2	3	12.9	4	11.3	5	17.7	5	18.2	6	11.1	4	8.0	5	8.2	3	7.1	6	11.9

TABLE XIX

Miscellaneous statistics of Homicides, Indictments, Convictions, Executions, etc., secured from Attorneys General and other state officials.

ARIZONA	1910–1922	505 homicides 101 convictions 23 sentences to death 16 executions
ARKANSAS	1921–1922	424 homicides 38 sentences to life imprisonment 13 sentences to death
FLORIDA	1901–1922	195 sentenced to death 153 executed 4 died 27 commuted to life imprisonment 11 reversals by court
IDAHO	1919–1922	47 convictions, murder, first degree 0 death sentences
ILLINOIS	1921–1922	416 murder cases 7 death sentences 111 prison sentences
NEBRASKA	1921–1922	57 prosecutions for murder 30 convictions 1 death sentence
NEW HAMP.	1912–1922	41 indictments, murder, first degree 12 life sentences 2 executions
NEW JERSEY	1912–1922	137 convictions, murder, first degree 44 executions
UTAH	1912–1922	23 convictions, murder, first degree 10 executions
WISCONSIN	1921	56 cases of homicide in courts of record 35 cases of murder 6 convicted of murder, first degree, sentenced to life imprisonment 4 insane 6 convicted of murder, second degree sentenced to 14 to 25 years

TABLE XX

Comparison of Homicide Rates of the Registration Area of the United States with the rates of England and Wales, Scotland and Ireland. The rates are based on 100,000 units of population. The rates in the United States are taken from the Census Bureau homicide statistics. The foreign rates were furnished through the courtesy of Frederick L. Hoffman, Chief Statistician of The Prudential Insurance Company of America and the sources as stated by Dr. Hoffman's office are given.

Year	*United States*	*England and Wales*	*Scotland*	*Ireland*
1911	6.6	0.77	0.23	1.0
1912	6.6	0.87	0.23	0.9
1913	7.2	0.87	0.19	1.0
1914	7.4	0.78	0.29	0.9
1915	7.0	0.77	0.42	0.8
1916	7.1	0.74	0.41	0.7
1917	7.7	0.76	0.56	0.8
1918	6.8	0.63	0.47	0.7
1919	7.5	0.81	0.65	1.5
1920	7.1	0.77	0.62	9.5*
1921	8.5	0.65	0.37	...

SOURCES

Statistics for England and Wales, Scotland and Ireland are from *Statistical Abstract of the United Kingdom.*

* NOTE: The increase in 1920 in Ireland was probably due to riots and internal disturbances. Figures for homicides in Ireland are from Reports of the Registrar General for Ireland, 1911–1920.

TABLE XXI

Comparison of Homicide Rates of the Registration Area of the United States compared with the rates of Australia, New Zealand and South Africa and the Provinces of Ontario and Quebec in Canada. The rates are based on 100,000 units of population. The rates in the United States are taken from the Census Bureau homicide statistics. The foreign rates were furnished through the courtesy of Frederick L. Hoffman, and the sources as stated by Dr. Hoffman's office are given.

Year	*United States*	*Australia*	*New Zealand*	*South Africa*	*Ontario*	*Quebec*
1911	6.6	1.60	0.39	....	0.71	0.40
1912	6.6	2.18	0.95	1.53	0.50	0.39
1913	7.2	1.94	0.75	2.56	0.45	0.71
1914	7.4	1.81	1.19	2.44	0.65	0.50
1915	7.0	1.84	1.36	2.25	0.33	0.36
1916	7.1	1.85	1.09	1.35	0.50	0.31
1917	7.7	1.49	0.91	1.26	0.72	0.69
1918	6.8	1.81	0.36	1.17	0.75	0.68
1919	7.5	2.16	0.44	....	0.63	0.62
1920	7.1	2.13	1.34	....	....	0.48
1921	8.5	....	1.23	....	0.10	0.76

SOURCES

AUSTRALIA: Population and Vital Statistics from *Commonwealth Demography, Bulletin No. 38.*

NEW ZEALAND: Figures from *Population and Vital Statistics of the Dominion of New Zealand.*

SO. AFRICA: Homicide figures (for white population only) from *Statistics of Union of South Africa.*

ONTARIO: Figures from *Vital Statistics of Ontario, Canada.*

QUEBEC: Homicide figures from *Health reports of the Province of Quebec.*

TABLE XXII

Comparison of Homicide Rates of the Registration Area of the United States with the rates of Spain, Holland, Sweden, Norway and Hungary. The rates are based on 100,000 units of population. The rates in the United States are taken from the Census Bureau homicide statistics. The foreign rates were furnished through the courtesy of Frederick L. Hoffman and the sources as stated by Dr. Hoffman's office are given.

Year	*United States*	*Spain*	*Holland*	*Sweden*	*Norway*	*Hungary*
1911	6.6	0.92	0.23	1.21	0.76	7.84
1912	6.6	1.00	0.39	1.43	0.75	7.46
1913	7.2	0.61	0.31	1.24	1.07	6.23
1914	7.4	0.90	0.21	1.30	0.77	5.66
1915	7.0	1.03	0.37	1.65	1.53	3.42
1916	7.1	....	0.32	1.27	0.64	....
1917	7.7	1.03	0.30	1.09	0.55	....
1918	6.8	....	0.34	1.05	0.53	....
1919	7.5	....	....	....	0.38	...

SOURCES

SPAIN: Statistics from *Annuario Estadistico de Espana.* 1911–1917.

HOLLAND: Statistics from *Statistiek van de sterfte van Nederland* and from *Jaarcifers voor het Koninkrijk der Nederlanden Rijk in Europa.*

SWEDEN: Statistics from *Dödsorsaker av Kungl. Statistika Centralbrron.*

NORWAY: Statistics from *Statistik Aarbok.*

HUNGARY: Source of information, *Annuaire Statistique Hongrois.*

TABLE XXIII

Comparison of Homicide Rates of all Registration Cities in the United States with the rates of foreign cities. The rates are based on 100,000 units of population. The rates in the United States are taken from the Census Bureau homicide statistics. The foreign rates were furnished through the courtesy of Frederick L. Hoffman and the sources as stated by Dr. Hoffman's office are given.

Year	*All Registration Cities United States*	*Berlin*	*Greater Hamburg*	*Leipzig*	*Paris*	*Munich*	*Cologne*
1911	8.3	1.31	0.87	1.34	3.38	2.98	1.53 *
1912	8.4	1.96	2.54	2.47	3.67	4.07	2.63 *
1913	9.0	1.45	2.19	0.97	3.42	4.66	2.38 *
1914	9.2	1.92	3.54	1.76	2.11	1.31	2.28 *
1915	8.7	1.17	1.29	0.84	0.28	2.40	2.74 *
1916	8.9	2.28	1.73	2.68	0.45	2.06	2.33 *
1917	10.0	2.69	0.67	0.73	0.65	0.94	0.72 *
1918	8.8	3.31	2.75	1.19	0.41	0.93	....
1919	9.5	5.04	....	3.14	1.99	11.00*	2.85 *
1920	8.8	....	....	1.63	....	2.61	3.49 *
1921	9.9	....	....	....	....	3.89	2.09 *

SOURCES

BERLIN: *Statistiches Jahrbuch der Stadt Berlin* and *Bevolkerungsvorgange Berlins.*

HAMBURG: *Bericht über die Medizinische Statistik des Hamburgischen Staates.*

PARIS: *Annuaire Statistique de la Ville de Paris.*

MUNICH: *Statistisches Monatsbericht der Stadt München.*

COLOGNE: *Statistisches Jahrbuch der Stadt Koln.*

*NOTE: Figures for Munich for 1919 and for Cologne for the entire period include deaths from capital punishment.

TABLE XXIV

ITALY

HOMICIDE RATES

Period	*Average No. per 100,000 Inhabitants Per Year*
1880–1884	10.64
1885–1889	9.23
1890–1894	7.78
1895–1899	7.43
1900–1904	5.62
1905–1909	5.05
1910–1912	3.93
1913–1915	4.04
1916–1918	3.14
1919	2.75
1920	3.48

NOTE: Statistics were secured from the Italian Ministry of Justice through the American Consul General at Rome.

TABLE XXV

DEATHS FROM HOMICIDES, SWITZERLAND

The data of homicides in Switzerland were secured through the American Consulate in Berne from the Swiss Federal Department of Justice.

Note that in each period except the last, the number of homicides and the rate per 100,000 of inhabitants are for ten years. For the purpose of comparison with the United States rates, the annual rate would be one-tenth of the decennial rate. In the final double column of the table, the number of homicides and the rate cover the whole period of forty years.

(a) within the cantons having capital punishment

Cantons	1881–1890		1891–1900		1901–1910		1911–1920		1881–1920	
	Total Homicides	*Per 100,000 Inhabitants*	*Total Homicides*	*Per 100,000 Inhabitants*	*Total Homicides*	*Per 100,000 Inhabitants*	*Total Homicides*	*Per 100,000 Inhabitants*	*Total Homicides*	*Per 100,000 Inhabitants*
Lucerne	35	2.6	40	2.7	37	2.2	31	1.7	143	9.2
Uri	6	3.5	3	1.5	6	2.7	4	1.7	19	9.6
Schwyz	11	2.2	20	3.6	11	1.9	6	1.0	48	8.7
Obwalden	4	2.6	6	3.9	4	2.3	1	0.6	15	9.8
Zug	8	3.5	6	2.4	8	2.8	4	1.3	26	10.0
Fribourg	22	1.8	33	1.6	37	2.6	15	1.0	107	8.4
Schaffhausen	10	2.6	12	2.9	12	2.6	5	1.0	39	9.4
Appenzell Rh. I.	...	...	1	0.7	3	2.0	4	2.7	8	5.9
St. Gall	49	2.1	31	1.2	54	1.8	42	1.4	176	7.0
Valais	15	1.5	27	2.3	36	2.8	33	2.6	111	9.7
Total	160	...	179	...	208	...	145	...	692	8.5

TABLE XXV (*Continued*)

(b) within the cantons not possessing capital punishment

Cantons	1881–1890		1891–1900		1901–1910		1911–1920		1881–1920	
	Total Homicides	*Per 100,000 Inhabitants*	*Total Homicides*	*Per 100,000 Inhabitants*	*Total Homicides*	*Per 100,000 Inhabitants*	*Total Homicides*	*Per 100,000 Inhabitants*	*Total Homicides*	*Per 100,000 Inhabitants*
Zurich	102	3.0	113	2.6	107	2.2	78	1.4	400	9.3
Berne	191	3.6	137	2.3	130	2.0	83	1.2	541	9.2
Nidwalden	3	2.4	7	5.3	2	1.4	3	2.1	15	11.5
Glaris	6	1.8	7	2.2	2	0.6	3	0.9	18	5.6
Soleure	29	3.4	32	3.2	28	2.4	24	1.8	113	11.2
Bâle-Ville	30	4.1	19	1.7	18	1.3	27	1.9	94	8.4
Bâle-Campagne	15	2.4	23	3.3	22	2.9	13	1.6	73	10.7
Appenzell Rh. Ext.	8	1.5	7	1.3	9	1.5	8	1.4	32	5.8
Grisons	17	1.8	18	1.7	17	1.4	22	1.8	74	7.1
Argovie	34	1.7	52	2.5	45	1.9	30	1.2	161	7.8
Thurgovie	20	1.9	17	1.5	26	1.9	20	1.5	83	7.3
Tessin	29	2.3	34	2.4	31	2.0	34	2.2	128	9.2
Vaud	80	3.2	66	2.3	68	2.1	60	1.9	274	9.7
Neufchâtel	49	4.5	26	2.0	23	1.7	8	0.6	106	8.4
Genève	53	5.0	25	1.9	24	1.5	40	2.3	142	10.7
Total	666	...	583	...	552	...	453	...	2254	9.0
Domicile Unknown.	...	...	136	...	126	...	88	...	350	...
Total for Switzerland	826	2.8	898	2.7	886	2.4	686	1.8	3296	9.9
Being for each ten year period										2.5

TABLE XXVI

AVERAGE HOMICIDE RATES

Country	*Period*	*Average Rate for Period*
UNITED STATES		
Total in Registration Area	1911–1921	7.2
ENGLAND AND WALES	1911–1921	0.76
SCOTLAND	1911–1921	0.40
IRELAND	1911–1919	0.92
CANADA		
Ontario	1911–1921	0.53
Quebec	1911–1921	0.54
AUSTRALIA	1911–1920	1.88
NEW ZEALAND	1911–1922	0.93
SOUTH AFRICA	1912–1918	1.79
SPAIN	1911–1917	0.92
ITALY (Abolition)	1910–1920	3.59
HOLLAND (Abolition)	1911–1918	0.31
SWEDEN	1909–1918	1.32
NORWAY (Abolition)	1910–1919	0.82
SWITZERLAND (10 cantons with capital punishment, 15 without)	1911–1920	0.18

TABLE XXVII

AVERAGE HOMICIDE RATES FOR CITIES

City	*Period*	*Average Rate for Period*
FOREIGN CITIES		
Greater Hamburg	1912–1918	2.10
Leipzig	1911–1920	1.68
Berlin	1912–1919	2.48
Paris	1910–1919	1.93

TABLE XXVII—*Continued*

AVERAGE HOMICIDE RATES

City	*Period*	*Average Rate for Period*
CITIES IN UNITED STATES		
New York	1912–1921	5.4
Philadelphia	"	5.7
Boston	"	4.5
Milwaukee	"	3.7
Rochester	"	3.0
Reading, Pa.	"	1.8

NOTE: Of the American cities selected for comparison, Reading is the lowest, Rochester the second lowest and Milwaukee the third lowest of the twenty-eight largest cities in the United States.

TABLE XXVIII

Return of Number of Cases of Supposed Murder in England and Wales in 1912, 1913, 1920 and 1921 (excluding cases of Infanticide of Children under one year by Mother, and Deaths from Illegal Operations).

Taken from a Report presented to Parliament
December, 1922.

Apart from cases of infanticide of children under one year of age by mother and cases of death from illegal operations, 390 cases of supposed murder came to the knowledge of the Police in the years 1912, 1913, 1920 and 1921.

In 83 of these cases the murderer committed suicide; in 288 cases arrests were made involving 313 persons; in the remaining 19 cases no arrest was made.

Of the 313 persons arrested and charged with murder, 64 were discharged or acquitted in respect of 51 cases, other persons being convicted in respect of three of these cases; 94 were convicted of murder and sentenced to death; 70 were ordered to be

detained during His Majesty's Pleasure (found guilty but insane, insane on arraignment or below 16 years of age); 74 were convicted of lesser offenses (manslaughter, wounding, &c.); 6 were found insane before trial; and the remaining 5 were disposed of as follows: 1 died awaiting trial, 1 extradited to Norway, 1 arrested and dealt with in Italy, 1 shot while being arrested, 1 handed over to the American authorities.

	1912	1913	1920	1921	Total
NUMBER OF CASES OF SUPPOSED MURDER					
Cases in which supposed murderer was arrested	78	74	80	56	288
Cases in which murderer committed suicide	16	25	20	22	83
Cases in which no arrest was made	4	1	7	7	19
Totals	98	100	107	85	390
NUMBER OF PERSONS ARRESTED AND RESULTS OF PROCEEDINGS					
Convicted of Murder					
Sentenced to death	26	27	28	13	94
Persons under 16 detained during His Majesty's pleasure	..	..	1	2	3
Found guilty but insane	12	13	12	8	45
Total convicted of murder	38	40	41	23	142
Convicted of some other offense	27	19	13	15	74
Discharged	12	12	26	14	64
Found insane on arraignment	4	5	7	6	22
Found insane on trial	3	0	2	1	6
Other results	0	3	2	0	5
Totals	84	79	91	59	313

TABLE XXIX

Statistics of Homicides, England and Wales, 1913 to 1922

Statistics received from Home Office, through the American Embassy at London, England.

	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922
Crimes Known to Police										
Murder (A)	178	141	130	146	127	131	176	179	138	145
Manslaughter	154	128	145	111	99	73	122	134	113	98
Total	332	269	275	257	226	204	298	313	251	243
Rate per 100,000	.907	.728	.778	.745	.670	.609	.810	.834	.663	.637
Murder										
Persons for trial (B)	67	55	47	54	48	57	83	90	63	60
Number actually tried	62	49	44	41	40	47	70	82	56	57
Number convicted of murder (C)	28	23	20	15	16	24	25	36	15	35
Persons under 16 ordered to be detained during His Majesty's Pleasure	...	...	1	...	...	...	1	1	2	1
Sentenced to Death	28	23	19	15	16	24	24	35	13	34
Sentenced to Imprisonment for Life	...	...	...	...	...	...	...	...	...	...
Executed	16	14	10	7	9	10	12	21	5	21

Note: Figures on line (A) relate to all murders known to the Police, whereas those on line (B) relate to the number of persons brought to trial in respect of those murders or some of them. Figures on line (C) give only the number of persons *convicted of murder*. Many of those mentioned in line (B) would be found guilty of the lesser offense of manslaughter and a certain number would be acquitted.

TABLE XXX

Showing the number of persons for trial and the number of convictions in the Courts of Assize and Quarter Sessions in England and Wales for the year 1921.

TOTAL NUMBER OF PERSONS FOR TRIAL		8934
No prosecution	13	
Insane on arraignment	30	
Acquitted	1712	
Special verdict, guilty but insane	27	
Convicted	7152	
		8934
TOTAL CONVICTIONS		7152
Sentenced to death	13	
" " penal servitude	582	
" " imprisonment	4648	
" " Borstal detention	327	
" " recognizances with probation officer	516	
" " recognizances [without probation officer	902	
Otherwise disposed of	164	
		7152

NOTE: The Courts of Assize and Quarter Sessions in England and Wales are the chief courts of Criminal Jurisdiction. The above figures are taken from Judicial Statistics, England and Wales 1921; Part I, Criminal Statistics.

TABLE XXXI

Table showing the number of Homicides, Homicide Rate, Indictments, Trials, Sentences and Executions, in France, for the years 1913, 1919, 1920 and 1921, furnished by the French Ministry of Foreign Affairs.

	1913*	1919	1920	1921†
1.—Number of homicides.....	1501	1541	1940	1737
2.—Homicide rate per 100,000 of population.....	4	4	5	4
3.—Number of indictments for murder.....	1304	1136	1603	1650
4.—Of those indicted, the number brought to trial.....	855	620	1154	1048
5.—Of those tried, the number convicted.....	558	391	410	713
6.—Of those convicted, the number sentenced to death.....	20	16	54	64
7.—Of those convicted, the number sentenced to life imprisonment.	70	36	104	101
8.—Of those sentenced to death, the number subsequently executed.	10	5	13	20

Comments on statistics made by Ministry of Foreign Affairs.

* Information collected during 1914, 1915, 1916, 1917, 1918 (war years) has not been published and is so summary as to be of little value.

† Scrutiny of statistics for 1922 not yet terminated.

The number of homicides set down in the first line represents the totality of crimes by assassination, murder, poisoning, infanticide, parricide, assault and battery resulting in death, and those cases constituting a crime or misdemeanor which were not followed up by the Public Prosecutor, or in which the bill of indictment was thrown out by the Examining Magistrate or the Court of Indictment.

Cases in which the bill of indictment was thrown out were likewise taken into account in the valuation of the figures in line 3, "number of indictments," this expression having been interpreted in the sense of "inculpations."

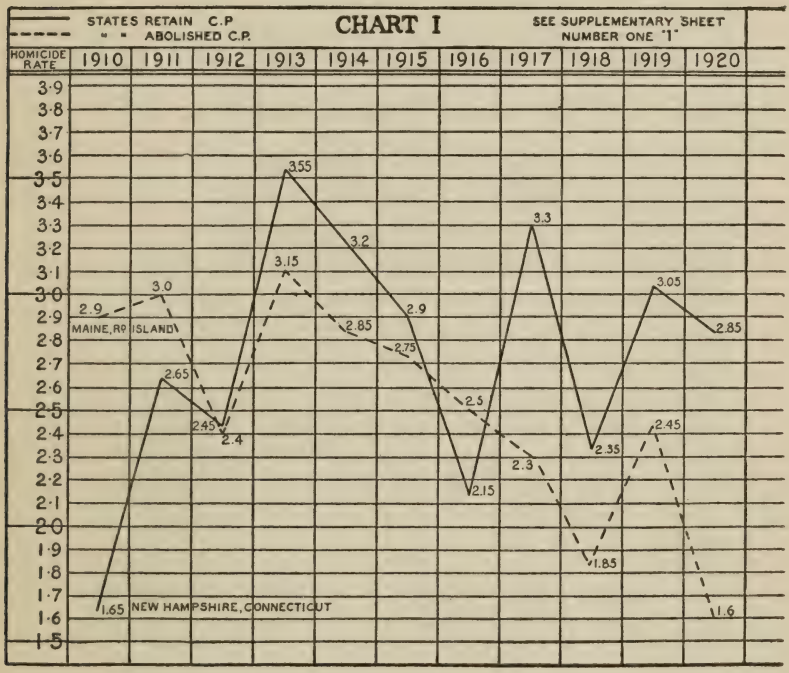
SUPPLEMENTARY SHEET

Explanatory of Chart I

Showing the combined average Homicide Rate for the years 1910 to 1921 inclusive in two states in the North Atlantic Division which have abolished capital punishment (Maine and Rhode Island) contrasted with the combined average rate in two states in this Division similar in size, character of population and industrial conditions, which retain capital punishment. (New Hampshire and Connecticut).

The solid black line represents the combined average rate in those states which retain capital punishment, the broken black line represents the combined average rate in those states in which it has been abolished.

The Homicide Rate figures are taken from statistics of the United States Census Bureau.


STATES RETAIN C.P
ABOLISHED C.P.
CHART I
SEE SUPPLEMENTARY SHEET NUMBER ONE "1"
HOMICIDE RATE
1910
1911
1912
1913
1914
1915
1916
1917
1918
1919
1920
3·9
3·8
3·7
3·6
3·5
3·4
3·3
3·2
3·1
3·0
2·9
2·8
2·7
2·6
2·5
2·4
2·3
2·2
2·1
2·0
1·9
1·8
1·7
1·6
1·5
2.9
3.0
2.65
2.45
2.4
3.55
3.15
3.2
2.85
2.9
2.75
2.5
2.15
3.3
2.3
1.85
2.35
2.45
3.05
2.85
1.6
1.65
MAINE, RHODE ISLAND
NEW HAMPSHIRE, CONNECTICUT

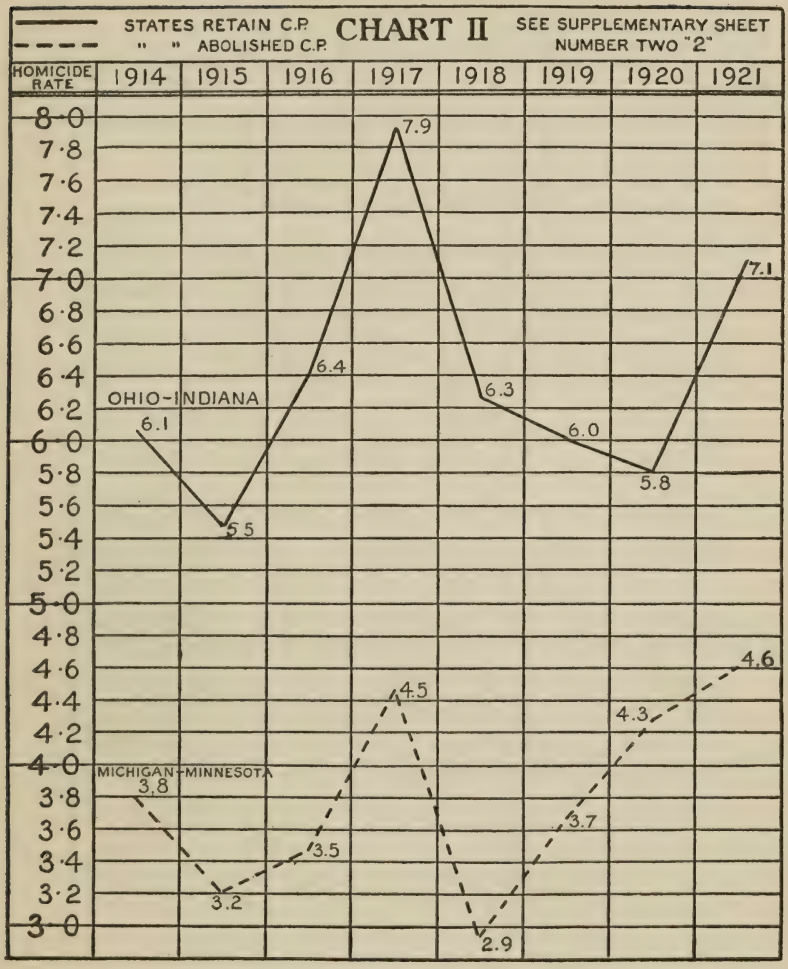
SUPPLEMENTARY SHEET

Explanatory of Chart II

Showing the combined average Homicide Rate for the years 1914 to 1921 inclusive in the North Central Division in two states which have abolished capital punishment (Michigan and Minnesota) contrasted with the combined average rate in two states in this Division similar in size, character of population and industrial conditions which retain capital punishment. (Ohio and Indiana).

The solid black line represents the combined average rate in those states which retain capital punishment, the broken black line represents the combined average rate in those states where it has been abolished.

The Homicide Rate figures are taken from statistics of the United States Census Bureau.

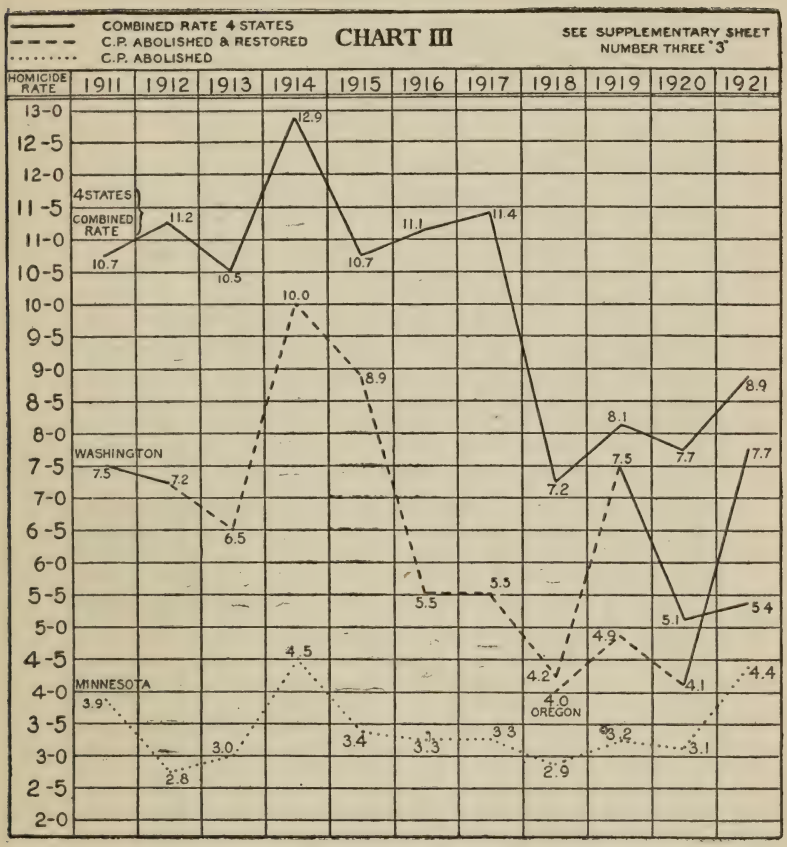

STATES RETAIN C.P.
" " ABOLISHED C.P.
CHART II
SEE SUPPLEMENTARY SHEET NUMBER TWO "2"
HOMICIDE RATE
1914
1915
1916
1917
1918
1919
1920
1921
8·0
7·8
7·6
7·4
7·2
7·0
6·8
6·6
6·4
6·2
6·0
5·8
5·6
5·4
5·2
5·0
4·8
4·6
4·4
4·2
4·0
3·8
3·6
3·4
3·2
3·0
OHIO-INDIANA
6.1
5.5
6.4
7.9
6.3
6.0
5.8
7.1
MICHIGAN-MINNESOTA
3.8
3.2
3.5
4.5
2.9
3.7
4.3
4.6

SUPPLEMENTARY SHEET

Explanatory of Chart III

Showing the combined average Homicide Rate for the years 1911 to 1921 inclusive in four states in the Western Division which retained capital punishment (Montana, Colorado, Utah and California) contrasted with the Homicide Rates in Minnesota, Washington and Oregon. In Minnesota capital punishment was abolished for the entire period. In Washington it was abolished in 1913 and restored in 1919. In Oregon it was abolished in 1914 and restored in 1920.

The solid line represents the combined average rate in the four states which retained capital punishment and in Washington and Oregon for the period before and after abolition. The broken line represents the rates in these two states during the abolition period. The dotted line represents the rate in Minnesota for the entire period. The Homicide Rate figures are taken from statistics of the United States Census Bureau.


COMBINED RATE 4 STATES
C.P. ABOLISHED & RESTORED
C.P. ABOLISHED
CHART III
SEE SUPPLEMENTARY SHEET NUMBER THREE "3"
HOMICIDE RATE
1911
1912
1913
1914
1915
1916
1917
1918
1919
1920
1921
13-0
12-5
12-0
11-5
11-0
10-5
10-0
9-5
9-0
8-5
8-0
7-5
7-0
6-5
6-0
5-5
5-0
4-5
4-0
3-5
3-0
2-5
2-0
4 STATES COMBINED RATE
WASHINGTON
MINNESOTA
OREGON
10.7
11.2
10.5
12.9
10.7
11.1
11.4
7.2
8.1
7.7
8.9
7.5
7.2
6.5
10.0
8.9
5.5
5.5
4.2
7.5
5.1
5.4
7.7
3.9
2.8
3.0
4.5
3.4
3.3
3.3
2.9
4.9
4.1
3.2
3.1
4.4

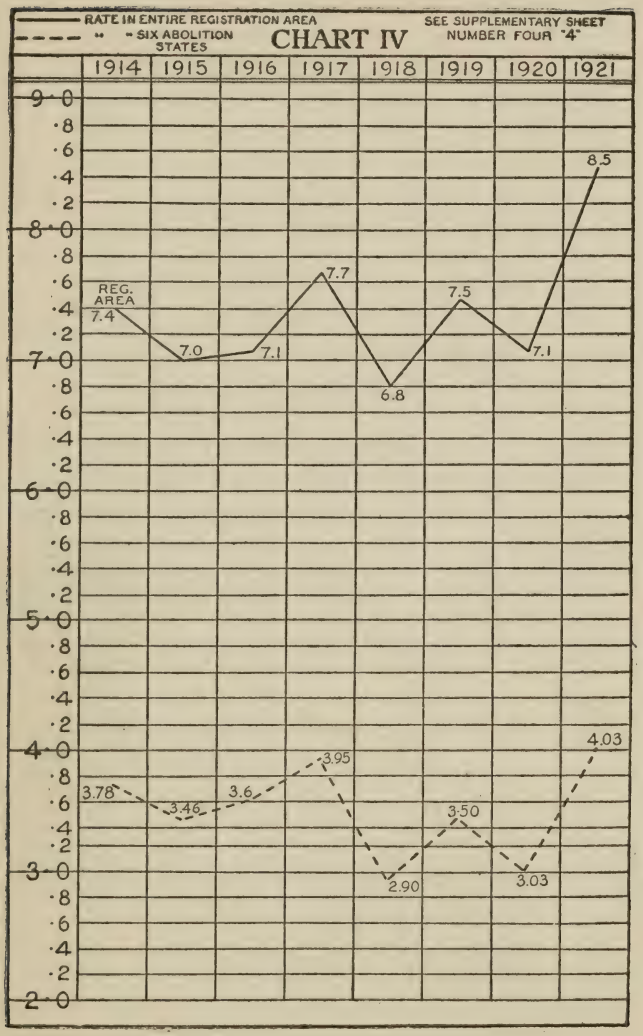
SUPPLEMENTARY SHEET

Explanatory of Chart IV

Showing the combined average Homicide Rate for the years 1914 to 1921 inclusive in six states where capital punishment was abolished (Maine, Rhode Island, Wisconsin, Michigan, Minnesota and Kansas) contrasted with the Homicide Rate for the entire Registration Area of the United States.

The solid line represents the Homicide Rate in the Registration Area, the broken black line represents the combined average rate in the six abolition states.

The Homicide Rate figures are taken from statistics of the United States Census Bureau.

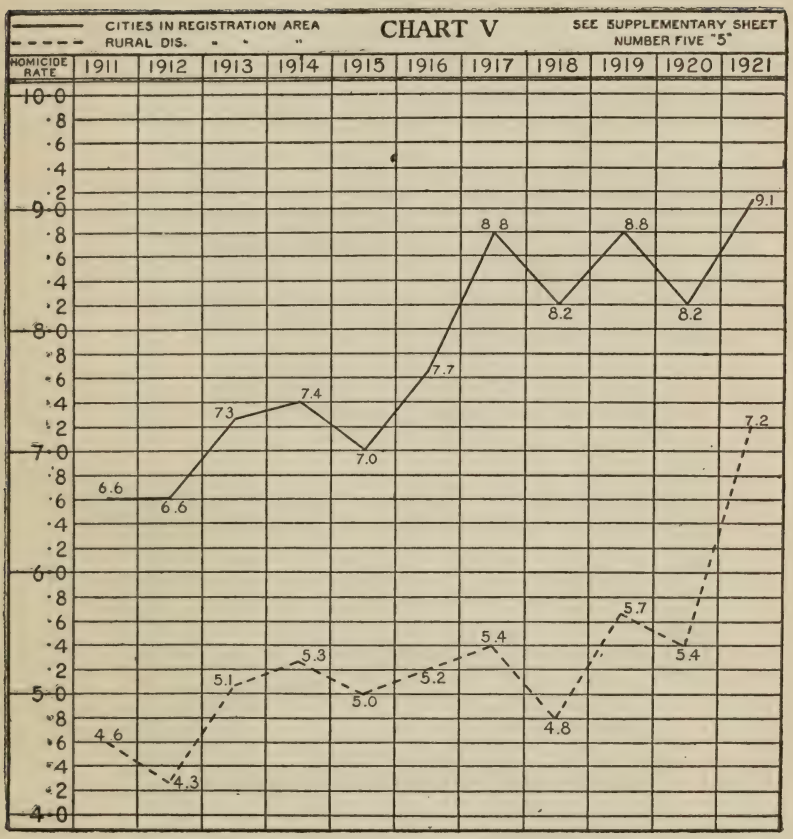

RATE IN ENTIRE REGISTRATION AREA
" " - SIX ABOLITION STATES
CHART IV
SEE SUPPLEMENTARY SHEET NUMBER FOUR "4"
1914
1915
1916
1917
1918
1919
1920
1921
9·0
·8
·6
·4
·2
8·0
·8
·6
·4
·2
7·0
·8
·6
·4
·2
6·0
·8
·6
·4
·2
5·0
·8
·6
·4
·2
4·0
·8
·6
·4
·2
3·0
·8
·6
·4
·2
2·0
REG. AREA
7.4
7.0
7.1
7.7
6.8
7.5
7.1
8.5
3.78
3.46
3.6
3.95
2.90
3.50
3.03
4.03

SUPPLEMENTARY SHEET

Explanatory of Chart V

Showing a comparison of the Homicide Rate between Cities and Rural Districts in the Registration Area of the United States for the period 1911 to 1921 inclusive. The solid line represents the rate in Cities, the broken line the rate in the Rural District.

The Homicide Rate figures are taken from statistics of the United States Census Bureau.


CITIES IN REGISTRATION AREA
RURAL DIS. " "
CHART V
SEE SUPPLEMENTARY SHEET NUMBER FIVE "5"
HOMICIDE RATE
1911
1912
1913
1914
1915
1916
1917
1918
1919
1920
1921
10·0
·8
·6
·4
·2
9·0
·8
·6
·4
·2
8·0
·8
·6
·4
·2
7·0
·8
·6
·4
·2
6·0
·8
·6
·4
·2
5·0
·8
·6
·4
·2
4·0
6.6
6.6
7.3
7.4
7.0
7.7
8.8
8.2
8.8
8.2
9.1
4.6
4.3
5.1
5.3
5.0
5.2
5.4
4.8
5.7
5.4
7.2

SUPPLEMENTARY SHEET

Explanatory of Charts VI and VII

Showing graphically:

Chart VI, for all states for which complete statistics are available, the percentage of all those sentenced to death during the years 1912 to 1919 inclusive, who were subsequently executed.

Total number sentenced to death	722
Number who failed to be executed	210
Total number executed	512

Chart VII, for all states for which complete statistics are available, the percentage of those sentenced to life imprisonment during the eight years 1912 to 1919 inclusive, who were commuted, or released prior to January 1st, 1923, and the percentage who on that date were still in prison or had died or become insane.

Total number sentenced to life imprisonment	2936
Number commuted, released, etc., prior to January 1st, 1923	651

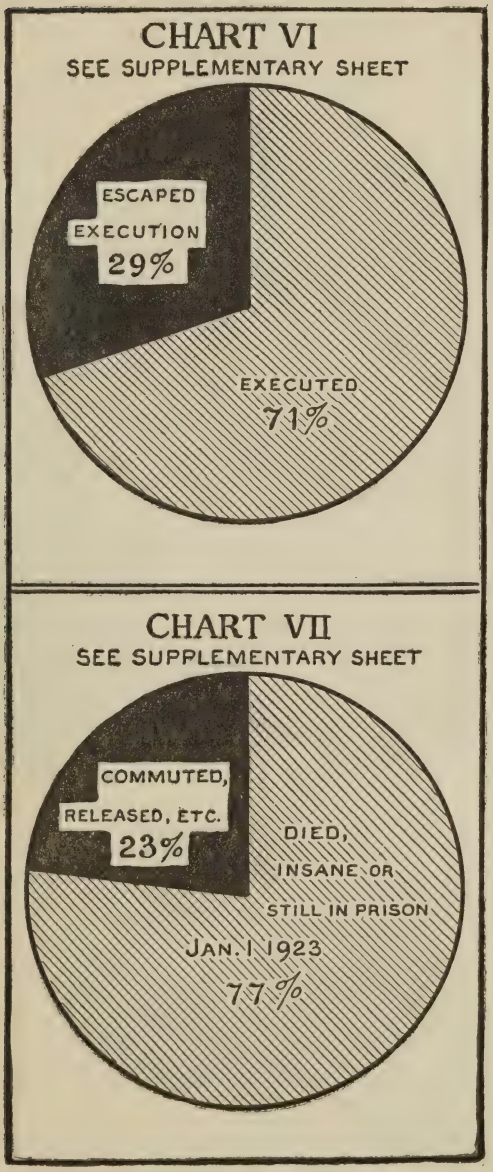


CHART VI
SEE SUPPLEMENTARY SHEET
ESCAPED EXECUTION 29%
EXECUTED 71%
CHART VII
SEE SUPPLEMENTARY SHEET
COMMUTED, RELEASED, ETC. 23%
DIED, INSANE OR STILL IN PRISON JAN. 1 1923 77%

SUPPLEMENTARY SHEET

Explanatory of Chart VIII

Showing graphically the total number of reported homicides in twelve states during the years 1912 to 1919, inclusive; the number of prisoners sentenced to death and the number executed during the same period.

STATES INCLUDED

New Hampshire	Virginia
Vermont	Kentucky
Massachusetts	Indiana
Connecticut	Ohio
New York	Utah
Pennsylvania	California

CHART-VIII

SEE
SUPPLEMENTARY
SHEET

TOTAL NUMBER REPORTED HOMICIDES

NUMBER
SENTENCED
TO DEATH

NUMBER
EXECUTED

Appendix B

QUOTATIONS

Extracts from Correspondence with State Executives and with Wardens of State Prisons; Comments by State Attorneys General; Quotations from Miscellaneous Sources.

Extracts from Letters from Governors

The sentiment of our people would be overwhelmingly against restoration of the death penalty if the question were brought forward for discussion. The policy of the State is fixed and I do not think there is even a small minority of our people who would favor a change.

—Governor Baxter of Maine.

The abolition of capital punishment did not tend to increase the number of murders. It apparently had no effect one way or the other. There is no agitation in the state at this time for the restoration of capital punishment. I feel that South Dakota did a wise thing in abolishing this penalty.

—Governor McMaster, South Dakota.

I am opposed to capital punishment because I think it serves no good purpose. I believe that public executions instead of operating to the public good, have just the opposite effect.

—Governor Hunt, Arizona.

The Governor is inclined to the belief that capital punishment is not justified at all. The Governor is

strongly of the opinion that capital punishment in Colorado has not had any effect whatsoever as a deterrent of crime.

—Hale Smith, Secretary to
Governor Sweet of Colorado.

I would repeal the law which provides the death penalty, except as it applies to criminals, who, after being sentenced, commit another capital offense, and I would not permit the Governor or anyone else but the Court to alter the sentence pronounced by the Court for such crimes.

—Ex-Governor McKelvie, Nebraska.
Message to Legislature, January 6, 1921.

I do not believe that the number of murders has either greatly increased nor decreased since the death penalty was abolished twelve years ago.

—Governor Preus, Minnesota.

Governor Groesbeck takes the view that the State has no more right to commit murder than has a private individual. Neither does it appear from the statistics gathered from states which still have capital punishment that the infliction of the death penalty is a real deterrent of the crime of murder, and if this be so, surely the whole case in favor of capital punishment falls to the ground. There is no question in the Governor's mind that the abolition of the death penalty many years ago by the State of Michigan was generally beneficial to the State.

—Rolph Duff, Secretary to
Governor Groesbeck, Michigan.

My impression would be that the abolition of capital punishment removes one of the deterrents to the commission of the crime of murder, but that it is justified nevertheless.

—Governor Nestos, North Dakota.

When the citizens of a commonwealth are educated to the point of believing that a criminal needs scientific treatment at the hands of a penologist quite as much as a consumptive patient requires medical care; when a State is provided with penal and correctional institutions adequate as to size, equipment and personnel; when convicts, without being "coddled," are so trained that they return to their communities better citizens for having been incarcerated; when a State has taken such forward steps in penal reform, no appreciable opposition to the abolition of capital punishment will be manifest.

—Governor Pinchot, Pennsylvania.

Comments by State Attorneys General[1]

Personally, I do not believe that there is any relation between first degree murder and the punishment prescribed therefor. . . .

—Oscar L. Young, New Hampshire.

It seems to me very clear that the use of capital punishment does not prevent homicides, and I am sure there is no substantial sentiment in Wisconsin in favor of returning to capital punishment.

—Herman L. Ekern, Wisconsin.

[1] Published in Report of the Committee on Law Enforcement of the American Bar Association, August, 1923.

I am of the opinion that capital punishment is not a deterrent of homicides. . . . It seems to me that merely prescribing an extreme penalty accomplishes nothing; it is a mere bogie which frightens no one. If we could substitute for this bogie the certainty of *some* punishment, whatever it might be, this certainty would be a deterrent.

—Milton J. Helmick, New Mexico.

My observation leads me to the conclusion that capital crimes are not committed by people who have sufficient control to feel the deterring effect of punishment.

—J. S. Utley, Arkansas.

My observation has been that the average person who commits a crime never considers for a moment what the penalty will probably be should he be apprehended and convicted, and therefore, severe penalties do not have the deterrent effect that some people would ascribe to them. The greatest deterrent which might occur by law enforcement is the certainty of detection and conviction.

—Rivers Buford, Florida.

I have no well defined opinion as to how much of a deterrent the death penalty is. I doubt if it has much virtue in that respect. . . . Whatever effect the death penalty may have, however, is largely negatived by the fact that juries are reluctant to fix it, judges are reluctant to pronounce it, courts are eager to seize upon technical grounds for the modification of the judgment and the pardoning power hastens to com-

mute. . . . it is not so much the degree of the punishment which acts as a deterrent upon the criminal, as it is the speed with which the punishment follows the crime and the certainty that the penalty must be paid.

—A. H. Connor, Idaho.

While I cannot say that I have positive convictions upon the subject I have always doubted the right or the propriety of imposing the death penalty since government is apparently able to protect society without this extreme measure.

—Ulysses S. Lesh, Indiana.

Extracts from Letters from Wardens

I am unalterably opposed to capital punishment, have always been and probably will always be, as I do not believe there is any deterrent in capital punishment. . . . I realize that society often is exasperated over some hideous crime that is committed, yet the infliction of the death penalty is no deterrent, and very few, if any, of the men I have known who were executed, ever gave any thought to the penalty when the crime was committed. On the other hand some of the best men I have ever come in contact with behind the prison walls were men who had been sent to the Penitentiary under the death penalty and whose sentences have been commuted to life imprisonment, so it is better by far to give the offender a chance to reclaim himself, repent of his crime and possibly save his soul, than it is to inflict the death

penalty upon him. Capital punishment never lessens crime nor will it ever do so. . . .

—Thomas J. Tynan, Warden,
Colorado State Penitentiary.

I am not in favor of capital punishment. I am for the reformation of men who have been sent to prison. I do not believe it will lessen crime in any way.

—Harry L. Hurlburt, Warden,
Michigan State Prison.

I do not believe the death penalty is any deterrent to crime. There are no more murders in Rhode Island where the death penalty was abolished seventy-five years ago than there are in Massachusetts, Connecticut or New York, where the death penalty is still inflicted.

—Charles E. Linscott, Warden,
Rhode Island State Prison.

I am frank to say that I do not believe in capital punishment. I do not believe that we have any more crime than they do in the states where they have capital punishment.

—Lester D. Eaton, Warden,
Maine State Prison.

I, personally, am opposed to capital punishment. I do not believe it acts as a preventive, and if it does not, why should we have it?

—G. T. Jameson, Warden,
South Dakota Penitentiary.

Miscellaneous Quotations

I believe the public is gradually awaking to this fact; that the death penalty is serving no purpose (except dispensing with the necessity of feeding, housing and providing work for the prisoner) which cannot be accomplished with much better effect in the interest of society, by imprisonment, and the public's will to abolish executions will be expressed in many states before many years. This growing attitude is indicated by many signs.

—*Death by Law*, by HARRY L. DAVIS,
Ex-Governor of Ohio.

It is a perfectly safe assumption that a very considerable proportion of homicidal crimes escape punishment, while the enforcement of the death penalty is a rather rare event, considering the large extent of cases in which it is deserved. Personally, my investigations, particularly in the case of electrocutions, have led me to change my opinion, and I am now reasonably well convinced that capital punishment, even when properly enforced, is not a sufficient deterrent of homicidal crimes to justify its continuance. It is a relic of barbarism for which modern civilized society should long since have been able to find a proper substitute.

—DR. FREDERICK L. HOFFMAN,
Consulting Statistitian,
Prudential Life Insurance Company.

It is a matter of history and statistics that in proportion as capital punishment, torture and cruel penalties are abolished, crime decreases. . . . No

soul except the soul unafraid could ever be genuinely good. It is fear that makes criminals. Fear is not the cure for crime. . . . Seventy-five per cent of the life-term prisoners in the United States are model prisoners. . . . Probably not more than eighteen per cent of the life men have ever been in serious conflict with the law before.

—Mordecai S. Plummer, Ex-Warden,
New Castle County Workhouse,
Wilmington, Delaware.

There have been received in this institution two hundred and sixty-three prisoners under life sentence. Of these sixty-five have been discharged by pardon. Our records show but one case where the prisoner pardoned returned to crime.

—Letter from Warden, Wisconsin State
Prison, to Charles B. Galbreath.

I was previously confined in one of the largest prisons of Paris, where I came in contact with several thousand fellow-prisoners. . . . Amongst other things we talked of capital punishment. And I heard from all of them that its effect was just the opposite from that claimed for it. For these men were outcasts from respectable society. They had no further hope of its estimation or honor; yet everyone naturally desires the good opinion of his fellow men, and if he cannot obtain the appreciation of the good, he will still value the admiration of the bad. Such is human vanity. But if there is anything the criminal class admire it is pluck and daring defiance of authority and its penalties. Consequently even the Guillotine

is to them an object to be defied in actual life. And thus do they defy and disregard it because it renders them heroes to their own class.

—Interview with a French prisoner.
Quoted by WILLIAM TALLACK, in
Penological and Preventive Principles.

Concerning the abolishment of capital punishment, Governor Washburn wrote in 1873:

"It has been twenty years since the abolishment of capital punishment in this State. No State can show a greater freedom from homicidal crimes with a population representing almost every nationality. Statistics show that crime, instead of increasing with the growth of population in the state, has actually decreased."

Governor McGovern wrote in 1912:

"More than fifty years ago capital punishment was abolished in Wisconsin. There is no movement here to restore capital punishment, the people being well satisfied with the present law."

We believe that this is the concensus of opinion in Wisconsin today.

—Extract from letter from
WISCONSIN STATE BOARD OF CONTROL,
July, 1923.

Professor Liepmann has made an exhaustive study of the effect of the abolishment of the death penalty in fifteen countries, including Italy, Portugal, Switzerland, Holland, Norway. In none of these states does he find evidence that any increase in crime resulted from the change.

—*Penology in the United States.*
by PROFESSOR L. N. ROBINSON (p. 254).

There is need for a wide-spread campaign to educate the public to favor the abolition of the Death Penalty and to substitute in place thereof something more constructive. Nothing is gained by destroying a man's life, other than satisfying the feeling for revenge. It has been shown quite clearly that the death penalty has not only not reduced crime but has frequently increased it. Executions have a most degrading effect upon the public for they tend to make the public cry for greater vengeance, stronger laws, more drastic sentences and more rigorous prisons. Crime may only be lessened by making impossible dire poverty which makes men desperate, and by establishing conditions that are normal and human.

—B. Ogden Chisholm,
International Prison Commissioner.

In the states that have abolished capital punishment the proportionate number of homicides is low. If the United States leads all other nations in the crime of murder, that disgraceful eminence is due to the states that throughout their entire history have prescribed and executed the penalty of death. In this letter to which I have referred, Upton states that he has not kept statistics of homicides for separate states, but that they are proportionately most numerous in New York and Pennsylvania in the North and in Texas, Tennessee, Virginia and Mississippi in the South. It is a fact of prime significance that the two Northern States named lead also, absolutely and relatively, in the number of legal executions in that section. Murder and the death penalty go hand in hand. They flourish together. The legal

execution with its sensational details, is a sickening, disgraceful, degrading exhibition. It demoralizes the community from newsmonger down to executioner. Public opinion has driven it from the light of day to the darkness of midnight and the solitude and gloom of the dungeon.

It is claimed that the death penalty will deter others from committing crime; that the example of a legal execution imposes a salutary restraint. If this be true, why was it abolished for minor offenses? Why are all its advocates and apologists agreed that it should apply to only one or two of the one hundred and sixty so-called capital crimes enumerated in the days of Sir William Blackstone? Why was the restraining death penalty abandoned for all these minor offenses?

The death penalty does not reform, does not deter, does not protect, does not accomplish a single legitimate end of punishment. It has been tried; it has failed; and it is doomed. It may not wholly pass away in your day or mine. But an enlightened public conscience will veto this decree and write for the state, as the state has written for its citizen's the injunction at once rational, Scriptural, salutary and humanitarian, "Thou Shalt Not Kill."

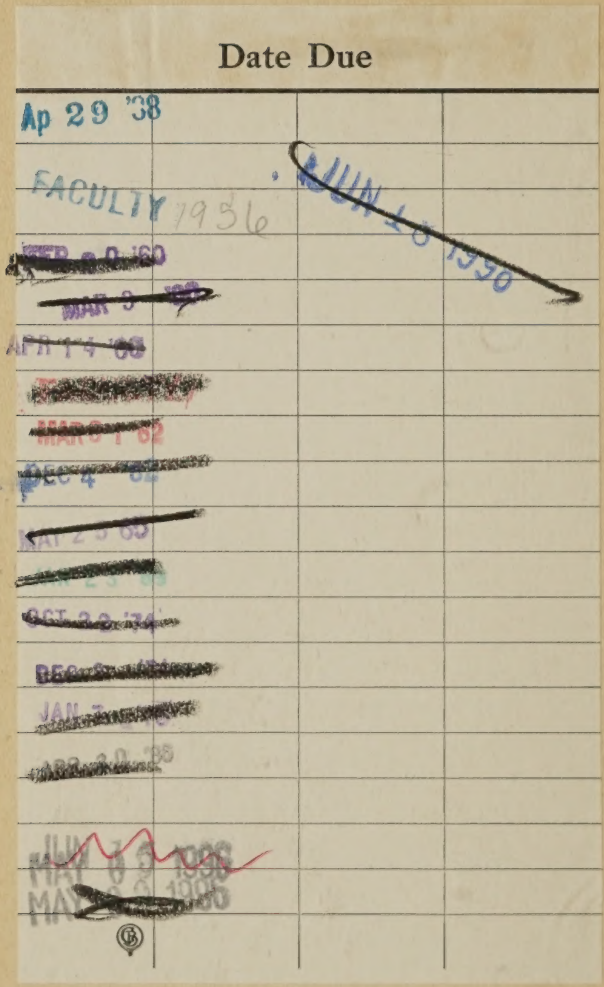
—Address by CHARLES B. GALBREATH.

If we must kill criminals, the use of electricity is the best way. Society is still barbaric, and so poorly organized that it cannot find any better way to protect itself than by the stupid method of killing its criminals.

—Quotation from a letter
from THOMAS A. EDISON to
Society to Abolish Capital Punishment.

The American Federation of Labor has declared its opposition to capital punishment. In 1895 it adopted a resolution declaring capital punishment a barbarous and "revolting practice" and one that should be abolished. That was my opinion at that time and for many years before.

—Quotation from a letter
from SAMUEL GOMPERS to
Society to Abolish Capital Punishment.


Date Due
Ap 29 '38
FACULTY 1936
JUN 15 1990

HV8694 .L41
Man's judgment of death : an analysis of
Princeton Theological Seminary-Speer Library
1 1012 00140 2181